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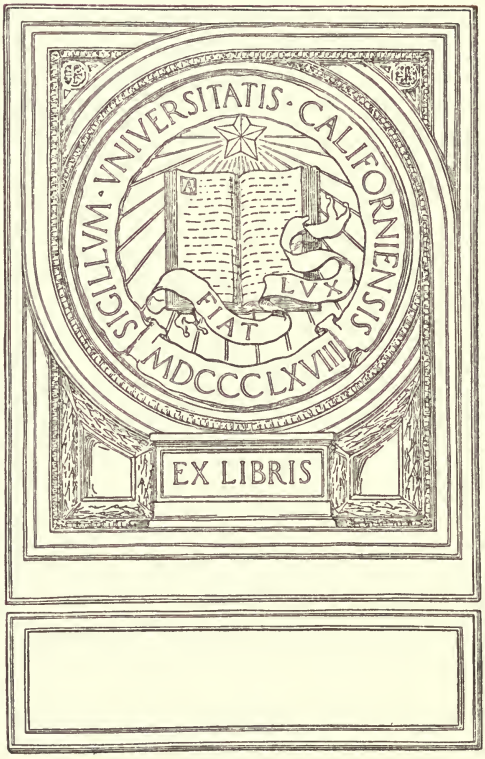

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May 1911
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LIFE OF
GENERAL LEWIS CASS.

BY WILLIAM T. YOUNG.

SKETCH

OF THE

LIFE AND PUBLIC SERVICES

OF

GENERAL LEWIS CASS.

WITH THE

PAMPHLET ON THE RIGHT OF SEARCH,

AND SOME OF HIS SPEECHES ON THE

GREAT POLITICAL QUESTIONS OF THE DAY.

BY WILLIAM T. YOUNG,

MICHIGAN.

DETROIT:
PUBLISHED BY MARKHAM & ELWOOD.
1852.

Entered according to Act of Congress, in the year 1851, by
WILLIAM T. YOUNG,
In the Clerk's Office for the District of Michigan.

G. W. PATTISON, Agent,
COMMERCIAL BULLETIN PRINTING HOUSE,
Detroit, Michigan.

TO THE

PEOPLE OF THE UNITED STATES,

THE

FOLLOWING SKETCH OF THE PUBLIC SERVICES

OF THE SOLDIER—THE DIPLOMATIST—THE STATESMAN,

AND NATIONAL DEMOCRAT,

IS RESPECTFULLY DEDICATED.

M116591

PREFACE.

A desire to present a fair and impartial history of the public career of one of the greatest of American Statesmen, has prompted the compilation of the following pages. However great may be the difference of opinion, politically regarded, between the reader and the distinguished subject of the work, the former cannot but feel a just and honorable pride, in the successful career, the commanding position, and the statesmanship of his countryman. Whether he be viewed at the bar, on the battle field, as civil governor, in the cabinet, at the foreign court, or in the senate, he stands forth a noble monument of the rewards of industry, integrity and patriotism,—a cheering example to the young men of the Union, to strive to follow in his path.

The writer prefers no claim to originality in the production of this work. The history of Lewis Cass is to be found in the public records of the country; the effect of his services, in her progressive prosperity at home, and in

her unstained reputation abroad. To collect the scattered history of his many and valuable services, has been the object most in view.

The appearance of this book, at this time of political excitement, when we are just on the eve of a Presidential election, may be considered as stamping the work with a partisan character; but such is not its tenor, or the purpose of its publication.

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LIFE

OF

GENERAL LEWIS CASS.

CHAPTER I.

Introductory Remarks—Birth of Mr. Cass—His Parentage—Education—He emigrates to Ohio—Enters upon the Practice of the Law—His Success—Volunteers in Defence of the Frontier—War of 1812—Invasion of Canada—Col. Cass' heroic conduct in Canada—Defeats a party of British Soldiers near Malden—Secures an Important Post—Orders of Gen. Hull—Is compelled to give up the advantages of his conquest, and return with the army to Detroit.

The record of the deeds of an individual, who by his own personal effort, the energy of his spirit and the force of his talents, has raised himself to a conspicuous and prominent position among his countrymen, is the best incentive that the young men of our country can have placed before them. The following is a biography of one, who of himself, has risen from the station of the humblest citizen, to that of the first statesman of his country, scarcely less known and celebrated among the Great Powers of Europe, than in his own country, and wherever known commanding attention, esteem and respect.

The pages which follow, are but a brief and unpretending narrative of the most marked events in the life of Lewis Cass, and as such the reader will please receive them.

Lewis Cass was born at Exeter, in New Hampshire, on the 9th of October, 1782. His father, Jonathan Cass was a practical mechanic, and at the commencement of the Revolutionary war was industriously pursuing his occupation in a quiet village of New England. But the first shot which proclaimed hostilities between the mother country and the colonies, awakened his patriotism, and arranging his private affairs as speedily as possible, he joined the

army of patriots on the day after the battle of Lexington and served under Gen. Washington in the most memorable contests of the war. He and his brother Daniel fought side by side at Bunker Hill, one being a sergeant and the other a corporal in the army. Jonathan Cass was at Monmouth, Trenton, Princeton, Germantown and Saratoga. His services were rewarded with a Major's commission in Wayne's army, whose scene of operation was to be in the defence of the western portion of the Union. To that region he removed from his New England home and when further labors in his country's service were no longer required, he settled down to pass the remaining years of his life upon land acquired by his own bravery, on the Muskingum river in Ohio; where he lived for many years and died respected by all, having been permitted to witness the rising greatness of his son Lewis, who at the time of his father's death had been for thirteen years Governor of the Territory of Michigan.

The foundation of Lewis Cass' education was laid at the Exeter Academy, where he received a classical education of a high order. Distinguished in his school-boy days for his ardent desire for learning, he applied himself studiously to the acquirement of knowledge, and in a short time was competent to take charge of an academic institution at Wilmington in Delaware. He remained at the head of the Wilmington academy until he determined to accomplish what had for some time been his wish—to make his home in the Great West, where he might grow up with that region of country about which he had obtained information which satisfied him that at no distant time, it would form a very important portion of the American Union.

Accordingly we find him at the age of seventeen, in the year 1799, crossing the Alleghanies on foot, carrying his knapsack and seeking, unaided, and without the help of wealth or power, a new home in the wilderness of Ohio. His steps were directed to Marietta, a small settlement at the mouth of the Muskingum. Here he commenced the study of law and entered upon its practice. At the bar he acquired a reputation which placed him among the eminent lawyers of the west. In the pursuit of his profession he was subjected to all the inconveniences and hardships of the wilderness, being often required to travel on an Indian trail through

dense forests to the places where the courts were held, which in those days were wherever the exigency of the moment fixed them. He was often called to try his powers in opposition to men of established fame in the courts of the state, and the success which is said to have attended his efforts proves that he was able to cope with the able and eloquent lawyers who were then regarded as the leaders of the profession in the North-west. His fame as a lawyer spread through the country and the unfortunate pioneer who became entangled in the meshes of the law, looked upon his release as certain if he could secure the advocacy of Lewis Cass. In the case of impeachment of Judge Brown, one of the presiding Circuit Judges in 1812, Mr. Cass was employed by the Judge to defend him on his trial before the Senate of Ohio. The state had engaged the celebrated Henry Baldwin, of Pittsburgh to prosecute the articles of impeachment. The novelty of the case—the standing and character of all concerned—accusers, court, accused and counsel, created great interest in the trial and attracted a large concourse of people at the Capitol to hear the proceedings. Baldwin was a man of great powers, and when he closed his speech against the accused, the friends of the latter feared that his eloquence and argument had closed the door of hope upon the Judge and secured his conviction. But the young advocate for the defendant rose amid the stillness and breathless anxiety of the mass of human beings who filled the capitol, and in a speech of tremendous power, in which he seemed to concentrate his whole being, swept away the apparently immoveable barrier raised by the eloquent Baldwin against the acquittal of the defendant, and secured the victory for his client.

At the age of twenty-five, Lewis Cass was elected to the Legislature of Ohio, then just admitted as a State. Here he was not less conspicuous for his powers both as a speaker and writer, than for the readiness of perception which characterized his comprehension of subjects brought to his notice. He was placed at the head of important committees, and though the youngest member of the House of Representatives, he was unanimously regarded as the leader of his party, The detection and exposure of the conspiracy of Aaron Burr, brought the young Legislator into more

conspicuous notice, and made his name and patriotism objects of national interest. Ohio was then, in 1806, the scene of Aaron Burr's incipient operations, where he attempted to raise men and means for his expedition. His progress was arrested by the prompt and decisive action of Mr. Cass, who drew up the law which put an end to Burr's designs. The Legislature of Ohio forwarded to President Jefferson an address on the occasion, written by Mr. Cass, which is replete with the noblest sentiments that can animate the bosom of an American citizen, setting forth with the eloquence of a true heart, the inestimable advantages of Union—the safety which exists only in a reliance upon the patriotism of the people, and their capacity to preserve inviolate the sacred contract which binds the states together in the Federal Union. This decisive and energetic act of Mr. Cass was pronounced by Mr. Jefferson to be the *first blow* given to the dangerous and treasonable schemes of the gifted but disappointed politician who sought to revenge his fancied wrongs, by subverting the good order and government of the people who had honored him, not, it is true, to the extent of his ambition, by bestowing upon him the second office of the Republic.

In March, 1807, President Jefferson appointed Mr. Cass, Marshal of Ohio. In the performance of the duties of this most responsible office, he was engaged until hostilities of the Indians rendered it necessary to take up arms in defence of the inhabitants on the frontier. In the latter part of the year 1811, the Indians instigated by the British officers at Malden, in Canada, to attempt to recover the lands they had ceded to the Americans by treaty, attacked the American camp on the Wabash. This aroused the patriotic inhabitants of Kentucky and Ohio, and they volunteered to march to the defence of the frontier. Mr. Cass was among the foremost who reached Dayton, the place of rendezvous. Here he was by acclamation elected Colonel of the third regiment of Ohio volunteers.

Other influences, however, were at work, which afforded a more extended field of action for the ardent soldier who had so eagerly enrolled his name among the defenders of his country.

In the early part of the year 1812, it was anticipated that the

peaceful relations existing between the United States and England would soon be terminated by a declaration of war, forced by the repeated and continued aggressions of the latter.

Acting upon the preservative principle, " in peace prepare for war," Congress adopted measures for the increase of the army. As it was probable, in the event of war, that the frontiers bordering upon the British Provinces, would be the principal theatre of hostilities on land, the attention of government was directed to their protection. A call was made upon the Governor of Ohio for a draft of militia and volunteers, for the service of the United States. Col. Kingsbury, of the 1st regiment, U. S. Infantry, was designated as the commander of the force, and was ordered to Washington to receive his instructions. Sickness, at that place, prevented him assuming his post, and General William Hull—who had acquired a high reputation in the revolutionary army, and who was then at Washington—was appointed a Brigadier General, and was assigned to the command of the north-western army. Gen. Hull was, at that time, civil Governor of the territory of Michigan. It was with some reluctance that he accepted the military command. This was in April 1812. The military force was raised for a double object: to act against the British in Canada, if there should be war, and to suppress hostilities from the Indians in the Territory of Michigan.

The militia of Ohio, under the order of Gov. Meigs, were, in a very short time, prepared to march. They rendezvoused at Dayton, to the number of 1200, and, marching from their to Urbana, were joined by 300 men of the 4th United States Regiment. The third regiment of Ohio militia and volunteers, was commanded by Col. Lewis Cass. Early in June, the army left Urbana for Detroit, distance more than 200 miles. Previous to commencing their march Col. Cass addressed his fellow soldiers, urging upon them the necessity of performing their duty to their country, and setting forth in glowing colors the honor and fame to be acquired by a successful campaign. The way led through a wilderness requiring the opening of roads and the construction of bridges and causeways. The soldiers were zealous in the cause which they had espoused, and bore the labors and fatigues of the march with heroism and patience. For the protection of the country, and the use and con-

venience of the army, they erected a number of block houses on the route. These were of great service to the invalids of the army, some of whom were worn down by the great and arduous difficulties of the march.

While the army was on the march to Detroit, there were, necessarily, but few opportunities for drilling the soldiers. Indeed there appears to have been culpable in attention to that important part of military education. But it is mentioned, by those who were the companions of Col. Cass, that he availed himself of every opportunity of drilling his regiment and accustoming them to movements and evolutions, upon the proper execution of which, battles have been often won. When the army halted for any length of time, after they were sufficiently recruited, Col. Cass would have his regiment on parade. The men thought the more of him for the interest he showed for their instruction. It would have been different, had he merely been content with issuing his orders, and entrusted their performance to his subalterns. That he did not do. He was on the ground himself; on the very spot where he should be. He required nothing of his soldiers, which he was not willing to do himself. Seeing him thus zealous in the cause in which he had embarked, the soldiers could not help being influenced by his example. A laudable emulation for excellence in martial acquirements thus became infused throughout his regiment, and with that spirit grew an attachment to their leader, which was attended with the happiest results. Kind, yet strict, he was loved and respected by all under his command. He had been chosen, by acclamation, to lead them, and they were willing to obey his orders, and follow him to the cannon's mouth. There was not between him, and the obscure volunteer in the ranks, that broad and deep abyss, over which neither could pass, and throw aside the strict etiquette of military distinctions. He could sit beside the sick or wounded soldier, and administer to the wants of the unfortunate, without feeling himself humiliated by the act, or his rank degraded by the humanity, which was moved by the sufferings of the private soldier. He could talk with him as man to man, of the common occurrences of the day, without lessening his influence, or hazarding obedience to his orders. Nor did he consider it unbecoming his station as an officer, to dismount from his

horse and march on foot at the head of his regiment, while the wearied soldier, sinking with fatigue or illness, was placed upon the seat his commander vacated. Such acts as these endeared him to his men, and made him the most popular and esteemed, and best obeyed officer in the army. When the army reached the forks of the Miami, Gen. Hull chartered a small vessel to transport to Detroit the heavy baggage and such of the sick as required rest and an easier mode of travel. This vessel was captured by an armed force, at the mouth of the Detroit river, sent from the British fort at Malden. War had been declared by the United States while Hull and his army were in the woods, and information had reached the enemy's post, at Malden, before it was known to Gen. Hull or any of his officers. Gen. Hull had previously received a communication, bearing date on the 18th of June, the day that war was declared, directing him to proceed to Detroit with all possible expedition. It was probably written previous to and just on the eve of the formal act, declaring hostilities to exist. On the 2d day of July, he received notice from the Secretary of War, that war had been declared. This communication, also, bore date on the 18th of June, but, by some means never ascertained or accounted for, it was fourteen days on its route, and did not reach him until five days after the event was communicated to the officers at Malden, and not until the day after the vessel had sailed from the Miami, with the invalids and baggage.

The route to Detroit, passed along the margin of the Detroit river, and through na Indian village, nearly opposite the British fort. War existing, it was supposed that our soldiers would be attacked and annoyed by detachments from that garrison. But such was not the case: the army continued its march and arrived at Detroit on the 5th of July, where it remained until the 12th of July, when it crossed the river into Canada. It was supposed that Gen. Hull would proceed at once and capture Malden. His officers and men were alive for the expedition. It was, to the extreme of military propriety, urged upon the commanding General by his associates and subordinates in command, but these suggestions had no effect other than to cause him to make preparations, ostensibly for the attack on Malden. Col. Cass, who had recently been at Malden, was satisfied that the fort there was not defensible against

a well directed and vigorous attack from our army. He was ardently desirous that the army should march forthwith to that point. In this he was not alone; other officers as well as the men, were solicitous for the expedition. They considered it a part of the duty they had come there to perform, and did not understand why they were held back. Gen. Hull himself, could not be otherwise than convinced that the possession of Malden, would be holding the key of the whole campaign; for in one of his letters to the Sec. of War, he says: that possessing Malden, he could march his army through Canada, to York or Niagara, in a very short time. Nothing could have been easier than to have taken the place. When the army crossed over, according to Gen. Hull's official report of the affair, one hundred British regulars, six hundred militia, and seven or eight hundred Indians, fled at his approach from Sandwich to Malden. The crossing was effected on the night of the 11th, from the point known as Bloody Bridge, a mile above the town. The movement was admirably performed, and was pronounced by the General to be honorable to the officers and men. In less than five minutes after the first boat struck the shore, the whole regiment was formed. Col. Cass was the first man of the army to step foot on the enemy's shore. Many of his companions were emulous of being the first to lead the way, but the honor of so doing was achieved by the gallant Colonel. Upon the landing of the army, Gen. Hull issued his proclamation to the inhabitants of Canada, promising them protection if they would join his standard. Numbers of them did so, and of those who did not, many returned to their houses. The day after the crossing, entrenchments were thrown up around the encampment and pickets erected on the bank side of it. Here the army remained, mostly in a state of inactivity in expectation of being moved to Malden. In regard to the siege of that place, consultations were held almost daily, among the officers called together by Gen. Hull. A majority were always of opinion that no delay should occur in regard to it. Gen. Hull was unwilling to proceed without a number of heavy guns, which unfortunately were out of repair, requiring to be mounted. Unusual delay attended the preparation of the artillery. The General himself seemed unable to say when they would be ready. In the mean time, news arrived of the surrender of Mackinac. Some

days after, Gen. Hull convened a counsel of officers, to consider whether it would be better to wait a few days longer, for the heavy guns, or proceed without them to Malden. It was apprehended that there would he difficulty in getting the guns over the river aux Canards, which lay between the army and Malden. Time was consumed in forming plans and making preparations, for the attack. Nothing was done, and after remaining nearly a month in the enemy's country, Gen. Hull on the eighth of August in despite of the earnest entreaties of his officers, and to their great mortification, and the disappointment of the men, ordered the army to retreat, by recrossing the river to Detroit, which it did. The men were dispirited by this abandonment of the advantage they had so laboriously gained. The officers were disgusted with the indecisive wavering conduct of the commanding general, though they were obedient to his orders, yet some of them refused to participate any further in his counsels, and declined expressing any opinion as to the movements of the army.

Although Gen. Hull did not engage with his main army in any offensive operations while he remained in Canada, yet some of his officers unwilling to pass the time in total inactivity, obtained from him permission to reconnoitre the country, and obtain such knowledge of the condition of things, as might be of benefit, when the army should move against Malden. For this purpose Col. Cass on the 17th of August led a detachment towards Malden, to examine the enemy's advanced posts. He found them in possession of a bridge at the river Aux Canards, about four miles east of the fort. Col. Cass stationed a company of riflemen near the bridge on the east side of the river and then proceeded with the rest of his troops to cross the river at a ford five miles above, the only crossing that was known. He succeeded in reaching the opposite side of the river and marching along the easterly bank of the river arrived about sunset in sight of the bridge. A nearer approach to the enemy at this point was prevented by an impassable creek. Col. Cass moved along the bank of the creek, in search of a fordable spot, and found one about a mile distant from the spot where he was intercepted. The enemy had seen the detachment during this last movement, and had time to make arrangements for defence. By the time Col. Cass had crossed the creek

and arrived within point of attack, they were formed in line and commenced a fire upon him. He led his force directly against them and drove them from the bridge at the first onset. After retreating, they formed again and he again threw them into confusion.—They were reinforced from the fort, and as often as they formed for defence, Col. Cass broke their ranks, and forced them to retreat. He pursued them until it became so dark that pursuit was relinquished. A number of the enemy were killed and some prisoners taken. The whole affair was conducted with bravery and skill; the daring and courage of the officers were nobly seconded by the alacrity and readiness of the men. A verbal message was sent to Gen. Hull notifying him of the important advantage obtained by Col. Cass, stating that the possession of the bridge opened the way for our army to subdue Malden. Gen. Hull did not agree with Col. Cass as to the expediency of retaining occupation of the bridge, but peremptorily ordered him to return to camp. Reluctant to abandon, without further effort, the immense military benefit which he had obtained, Col. Cass and his officers remonstrated with Gen. Hull in a written communication. But that officer would not yield his opinion or retract from his position, blindly assumed. He was, however, so far impressed by the obvious truths of the arguments of his officers, as to refer the subject to the discretion of Col. Cass and the officers with him, still expressing his disinclination to keep possession of the bridge, because the cannon wanted for the anticipated attack upon Malden, were not ready for transportation. Col. Cass and his associates thus placed in a novel position by the indecision of the commanding general, held a council, as to what course should be adopted. The council regarding the question as one of military discipline, by a majority resolved to abandon the bridge. Col Cass did not accede to this decision, but with Capt. Snelling insisted upon remaining there. Finding themselves in a minority on this point they were obliged to yield, and the detachment in accordance with the orders of Gen. Hull returned to his head quarters.

Knowledge, afterwards obtained, established, beyond doubt, the correctness of the views of those officers who urged an immediate assault upon the British works at Malden. During the visit of Col. Cass, with the flag of truce, at that place, before the army

moved into Canada, its indefensible condition was apparent. Hence his earnest entreaties, and unwavering desire for its capture. From the enemy's own statements, it appears that they did not believe the place could be defended against the vigorous attack of a determined enemy, and the commanding officer had determined to risk the fate of a general battle, rather than the hazard of a siege. With the exception of the powder magazine, the works were principally of wood, covered with thin pine shingles, and could not have borne the weight of shells and shot which would have been poured upon them.

The defeat of the enemy at Aux Canards, and the capture of the bridge, created the utmost consternation at Malden. Preparations were made for abandoning it; but when it was ascertained that the American General did not intend to complete what Col. Cass had so successfully commenced, all fears were dispelled—the citizens and solders increased the defences of the town, and waited re-inforcements. This first fatal and unfortunate step was but the precnrsor of other fatalities which were in store for our noble hearted volunteers, who only wanted opportunity and permission to hew their enemies down before them.

To Col. Cass belongs the honor, not only of being the first man to invade the enemy's territory, but also of having opened the campaign with a victory.

The return of the detachment from Aux Canards, together with that of Col. McArthur, who had been patrolling the country in the direction of the riaer Thames—instead of infusing courage and activity into the movements of the commanding general, seemed to increase his desire to get back to Detroit with as much expedition as he could. Having called a council, he announced his purpose to abandon the country and retreat across the river. Although a majority of the couucil decided upon remaining and waiting until the ordnance could be got ready for the attack on Malden—yet Gen. Hull ordered his own opinion to be carried into effect, declaring that, even though every person should oppose him, he was responsible, and would act agreeably to his own judgment. During the stay of the army in Canada, councils were called every day, and the General was urged to move down on to the Aux Canards, or proceed at once to Malden. From these repeated ex-

pressions on the part of his associates, he could not be mistaken as to their wishes or the inclination of the whole army. General Hull, from time to time, yielded to the advice of his associates, so far as to remain where he was, and make preparations ostensibly for the wished for attack on the British fort. But news having arrived of the fall of Mackinac, apprehensions of a descent by the great number of Indians supposed to have been on the upper lakes, caused the General to suspend further operations in the enemy's country, except to erect a picket fort, in which he would leave a small detachment, while he would return to Detroit with the main army. The gallant Col. McArthur, whom Gen. Hull proposed to leave in command of this picket, was so indignant at the obvious falsity of the proposition, that he could not refrain from telling his commander, that, though he considered it a hardship that his regiment should be so sacrificed, yet, if such were his orders, he would obey,—and that while the result must inevitably bring defeat and disgrace upon the officers and soldiers left there, it might serve to avert a portion of the General's own disgrace for recrossing the river. The energetic manner of Col. McArthur, temporarily aroused the drooping spirits of the commander, and he issued orders to prepare for the advance upon Malden. This order was received by all with the utmost pleasure, and a confident expectation spread among the soldiers that the commanding General would himself lead them to the storming of the place.

Preparations for the march were continued until the middle of the day following the issuing of the orders, when Gen. Hull again changed his mind, and calling his officers together, told them that, notwithstanding the respect he entertained for their opinions, he considered himself responsible for the movements and fate of the army, and had come to the determination to re-cross the river, for the protection of the fort and town of Detroit. The order was given, and the army, dispirited and dejected, re-crossed and took post at the back of the town.

CHAPTER II.

Battle of Brownstown—Battle of Maguaga—Col. Cass volunteers to accompany a detachment through the wilderness to the River Raisin—The Surrender of Detroit—The detachment ordered to return—Indignation of Cols. Cass and McArthur—Their Return to Detroit—Letter of Gov. Meigs—Resolutions of General Assembly of Ohio—Official Letter of Col. Cass to the War Department.

While Gen. Hull was in Canada, he received information, that a company of Ohio militia, under the command of Capt. Brush, had reached the River Raisin, having in charge a number of beef cattle, which they were driving to the garrison at Detroit, and fearing an attack from the Indians and British at Malden, were waiting for a reinforcement from head quarters. It was reported that a body of savages had been sent across the Detroit river from Malden, the British post at the mouth of the river, to intercept and cut off the escort on its march to Detroit. Major Van Horne, of Col. Findlay's regiment, was therefore ordered to take a detachment of one hundred and fifty riflemen, and some militia, who had remained at Detroit, and proceed with them, by a back route, to the Raisin, to meet and aid the escort of Capt. Brush.

Van Horne crossed the river from Canada on the night of the 4th of August, 1812, with his riflemen. At Detroit he collected fifty militia men, and commenced his march. He proceeded a few miles beyond the river Ecorce, where he halted, and while the detachment was at rest, he went among the inhabitants to get information about the back route, which his instructions directed him to take, in order to avoid the hazard of an ambuscade on the route through the village of Brownstown. There was no back route to any of the people living in the vicinity; to his inquiries they declared that they never heard of any. Nor could he procure guides to conduct him through the woods. The inhabitants represented the country to be one vast and continuous swamp, and that it would be impossible for the soldiers to get through to the Raisin by that

way. In consequence of not being able to find any back route or procure guides, Major Van Horne was compelled to take the road through Brownstown. When the detachment arrived near Brownstown Creek, and was marching through a small space of open ground, it was fired upon by a body of Indians from the woods. No enemy was seen, but most terrific yells were heard in the direction of the attack. Major Van Horne ordered his men to retire to the edge of the woods and form a line. The troops retreated, firing as they went. Having returned about a quarter of a mile, a line was formed, and a fire commenced upon the Indians. The soldiers did not retreat in good order, and became greatly dispersed. In the skirmish, eighteen were killed, twelve wounded; and about seventy were missing, who fortunately reached Detroit in safety. Major Van Horne returned with his detachment to Detroit.

On the eighth of August, the same day the army re-crossed from Canada to Detroit, another attempt was made to open a communication between Detroit and the Ohio militia at the Raisin. For this purpose Col. James Miller, who commanded the fourth regiment of United States Infantry in Gen. Hull's army, was detached on the evening of the eighth of August, with six hundred men, regulars and volunteers, with orders to join the escort at the Raisin, and march it to Detroit. While on the march, on the afternoon of the ninth, Captain Snelling, who commanded the advance guard, came upon a large body of British and Indians, near Maguaga, drawn up in regular order of battle, protected by a thicket of under-brush, and a breastwork of logs which they had erected. Capt. Snelling was some distance in advance of the detachment, and bravely fought against the severe and murderous attack of the enemy, until Col. Miller came up with the rest of the force. The soldiers were immediately formed into line for attack. Col. Miller had one field piece, and a howitzer. He marched his troops to within a short distance of the enemy, fired, and then charged upon them with the bayonet. The contest was honorable to the American force—particularly to the Michigan and Ohio volunteers, who formed most of the detachment. The British and Indians retreated towards Brownstown, and succeeded in crossing the river to Malden. Col. Miller pursued them until night-fall, when darkness

and the laborious service his soldiers had performed, compelled him to discontinue the pursuit. In this engagement the force of the enemy consisted of seven hundred and forty—British regulars, Canadian militia and savages, besides a number of Indians belonging to the settlement of Brownstown. The injury sustained by the detatchment, was seventeen men killed and sixty-four wounded. The loss on the enemy's side was one hundred and thirty-four killed and wounded.

After the battle, the detachment remained a few days at Maguaga, waiting provisions from Detroit, which had been sent for—the soldiers having before the engagement, thrown away their knapsacks which contained their rations. While thus waiting, Col. Miller received an order from Gen. Hull, to return with his men to Detroit, which he did, without having accomplished the object of his expedition.

The troops with the cattle, still remained at their post on the River Raisin, awaiting support from Detroit. The difficulties which prevented them from reaching Detroit, without aid, may be better understood, when it is remembered that the usual route, and indeed almost the only passable one, between them and the garrison, run principally along the northern shore of the Detroit river. The road was exposed to the enemy's fire from the opposite shore, and from their gun boats and vessels in the river. It was impossible to proceed on that route without being annoyed by them. The force at the Raisin did not exceed two hundred and fifty men—a few of them regulars—the main body being militia and volunteers. They were liable to attack where they were—and it was a matter of no small moment that they should be relieved. It was therefore determined to send another detachment to them, by a circuitous route through the interior of the country, and a number of miles distant from the river. Gen. Hull ordered a detachment of three hundred and fifty men for that purpose. Col. McArthur was placed in command. Col. Cass accompanied them as a volunteer. The presence of this brave soldier always inspired the men with more than usual courage. He was beloved and respected by them, as well for his courteous and affable demeanor, as for his constant practice of sharing with them the privations and fatigues of arduous and difficult service. Wherever there was aught to be done,

serviceable to his country, there he was found, with men rallying around him, eager to follow him in any deed of daring, animated by his example to peril all to the last extremity, for the success and glory of their country's flag.

It was late in the day of the fourteenth of August, when Colonels McArthur and Cass left Detroit with the detachment, on their laborious and difficult expedition. So short was the time between the announcement of the project, and the moment of its execution, that the detachment were forced to march without a supply of provisions. Soon after their departure, an event occurred which rendered the completion of the enterprise unnecessary, and determined Gen. Hull to recall them to Detroit. The particulars of this event —The Surrender of Detroit—present the most extraordinary and unprecedented instance of passive submission on record. The event itself, happening at the outset of the war, without even a plausible appearance of necessity, excited the deepest indignation in every mind throughout the United States, capable of appreciating its disastrous influence.

When Colonels Cass and McArthur marched with their detachment from Detroit, it was supposed, generally, at that post, that Gen. Brock the acting Governor, and Major General, commanding the British army in Upper Canada, was stationed at Fort George on the Niagara frontier. If other knowledge of his position was in possession of any person in the American army of the northwest, it was carefully kept a profound secret. The supposition as to his position was erroneous. Gen. Brock, during the existence of an armistice agreed upon, between Gen. Dearborn, the senior General of the American army, and Sir George Provost, Governor General and commander of the British forces in both the Canadas, and which only had reference to the movements of both armies on the eastern frontier, had moved with his forces by a rapid march from York to Malden. He arrived at Malden on the fourteenth of August, 1812, and on the next day marched up the river and took post at Sandwich, nearly opposite Fort Detroit. Here he erected batteries and other works indicating an intention of making an attack on the fort. No attempt was made to drive him from his position.

At about noon of the next day, the 15th, a boat was seen to

leave the Canadian shore, having on board two British officers, bearing a flag of truce. Upon reaching the American side, the officers landed at the public wharf in the town of Detroit, where they were received by Captains Snelling and Fuller, who had been directed by Col. Miller to ascertain the object of their visit. They announced themselves to be Colonel McDonald, of the Canadian militia, and Captain Glegg, of the British regulars, aids to Gen. Brock, and bearers of a despatch from him to Gen. Hull. They were blindfolded and conducted to the house of Col. H. J. Hunt, about two hundred yards from the fort, where they were detained until their despatches could be delivered to Gen. Hull, and an answer received from him. After an interval of some hours, Capt. Hull, son and aid to the General, came to the house where the officers were, bearing the reply of Gen. Hull. It was delivered to them; they were conducted to their boat, and recrossed the river. It soon transpired that the object of their visit was to present to Gen. Hull a formal demand from Gen. Brock of the surrender of Detroit. This news spreading among the citizens, caused considerable panic and confusion. Anxiety for the safety of their families dwelt in every mind. No one dreamed of a surrender—the feeling of the moment was resistance, and moving the women and children, with their movable goods and furniture, out of the reach of the enemy's guns. They expected an attack and were prepared to resist it.

The arrival of the British officers, and the report that Gen. Brock had demanded the surrender of the post, gave the first intimation to the citizens and soldiers, of the proximity of the British General. The demand of surrender was in the following terms:

"HEAD QUARTERS, SANDWICH, Aug. 15, 1812.

SIR:—The force at my disposal authorizes me to require of you the immediate surrender of Fort Detroit. It is far from my inclination to join in a war of extermination; but you must be aware that the numerous body of Indians, who have attached themselves to my troops, will be beyond my control the moment the contest commences. You will find me disposed to enter into such conditions as will satisfy the most scrupulous sense of honor. Lieut. Col. McDonald and Major Glegg are fully authorized to conclude any arrangement that may prevent the unneccessary effusion of blood. I have the honor to be your obedient servant,

(Signed) ISAAC BROCK, Major Gen'l, &c.

His Excellency, Brigadier Gen. Hull, &c."

To this letter, Gen. Hull returned the following decided refusal to comply with its proposal, although the latter portions of the reply appear to be apologetic for some transactions, which were not nearly so offensive as the insolent demand of the British General:

HEAD QUARTERS, DETROIT, Aug. 15, 1812.

SIR:—I have no other reply to make than to inform you that I am prepared to meet any force which may be at your disposal, and any consequences which may result from any exertion of it you may think proper to make.

I avail myself of this opportunity to inform you, that the flag of truce, under the direction of Captain Brown, proceeded contrary to the orders, and without the knowledge of Col. Cass, who commanded the troops which attacked your picket near the river Canard bridge.

I likewise take this occasion to inform you that Cowie's house was set on fire contrary to my orders, and it did not take place until after the evacuation of the Fort. From the best information I have been able to form on the subject, it was set on fire by some of the inhabitants on the other side of the river.

I am, very respectfully, your Excellency's most obedient servant,

(Signed) W. HULL,

Brigadier General, &c.

His Excellency Maj. Gen. Brock, &c."

The natural supposition of every man, on reading that part of Gen. Hull's letter, having reference to the haughty and offensive demand of Gen. Brock, would be, that he intended to oppose to the last moment, any attempt on the part of the enemy to possess themselves of the Fort, and would yield only with his life, the flag of his country to the invader. How then in comparison with the letter and spirit of his answer to Gen. Brock, can the subsequent conduct of Gen. Hull be accounted for, unless it be admitted that he was afterwards suddenly smitten with fear and dismay, by the very first step taken by the British General to enforce the surrender of the Fort?

A short time before sunset on the day on which the above communications passed between the two Generals, the British who had been permitted unmolested to erect their works on a commanding point of ground at Sandwich, commenced firing upon Detroit. The bank of the river being higher there, than on the American side, gave them a decided advantage in throwing shot and shells into the Fort. They, however, did but little execution; only one man was injured, and that only slightly in one arm. The fire was

returned from one of the batteries which had been built near the centre of the town. The attack upon the town continued until near midnight when it was suspended for a few hours. At daylight the next morning, August 16th, it was resumed on both sides, the enemy commencing it, and our batteries returning the fire. The firing was kept up on our side until orders were issued to stop firing. The firing from the other side continued a quarter of an hour after our batteries had ceased, and killed two of our commissioned officers, a surgeon and two privates. Soon after, Capt. Hull was sent across the river with a flag of truce.

During the bombardment, many incidents, worthy of note, occurred. At its commencement, the citizens being unaccustomed to the roar of artillery, the rattling of shot against the sides and upon the roofs of the houses, and the bursting of shells, kept a vigilant eye upon the movements of the enemy. When they saw the flash or smoke of a cannon or mortar on the other side, they dodged behind some building or place of shelter. After a little while they became more used to it and paid less attention to the messages sent by the enemy through the air. The late Judge Woodward, one of the Judges of the Supreme Court of the Territory, at that time kept bachelor's hall, in a stone building on the north side of Jefferson avenue, the principal street of the town, running parallel with the river, and situated near the arsenal. Between this house and the river, there was a large brick storehouse belonging to the United States, and near it one of our batteries was built. Many of the shots aimed at the battery struck the store house. A shot passed over the store house and perforated the stone building in which the judge had his quarters. He had just arisen from his bed and stood beside The shot came through into his room and struck the pillow and bed, and drove them into the fire place; and the spent ball rolled out on to the floor.

On the evening of the 15th a large shell was thrown from a mortar opposite where Woodward avenue now is. As it came careering along in its circling path through the air, it was watched with an anxious eye, by those who saw it, as a messenger of death, perhaps, to some fellow mortal unconscious of his approaching fate

The fuse was burning brightly as swiftly it sped on its errand of destruction. It passed over Jefferson avenue and fell upon the roof of the dwelling of Mr. Augustus Langdon, which stood on what is now called the southerly corner of Woodward avenue and Congress street. Passing through the upper rooms of the house, it fell upon a table around which the family were seated—and then descended through the floor to the cellar—the fuse burnt down nearly to the powder. The family fled with expedition to the street, which they had just reached, when the shell exploded—tearing up the floors, and carrying away a portion of the roof.

None of the citizens of the town were killed during the attack, though many of the dwellings were marked by the shot and shells of the enemy.

The fort occupied the high grounds near the residence of the late Judge McDonell. A shot passed over the front wall, and penetrated the barracks, which were on the north side, killing three officers who happened to be standing in the range of its course. Another shot struck the top of the front parapet, and passing through it, struck a soldier on the breast, killing him instantly without breaking the skin where it hit him.

One of the French citizens, who lived in a small house near the river, while the shots and shells were flying over him, stood unconcerned in his doorway smoking his pipe. Presently, a shell whizzed past him, taking with it, the pipe from his mouth. He was unharmed, but was so indignant, at the unceremonious treatment, and the loss of his pipe, that he seized his musket, and, rushing to the river, waded out as far as he could, and fired at the battery of the enemy until his ammunition was exhausted.

In the mean time, under cover of his batteries, Gen. Brock had crossed the river with his forces and landed at Springwells, a mile or two below the town. Here he formed his line and marched up a narrow lane leading from Springwells to the town, halting at a ravine just below the city. Here he remained unmolested, and partook of breakfast, while he dispatched an officer with a flag to ascertain why the American General sent a flag of truce across the river, when *he* was on this side. Gen. Hull sent Captain Snelling with a note to Gen. Brock, which he delivered; the purport of

which was that he agreed to surrender the fort. Col. McDonald and Captain Glegg were sent by Gen. Brock to agree upon the terms of the surrender.

Gen. Brock crossed with his army early on the morning of the 16th of August. It consisted of a regiment of regulars, volunteers in uniform, and un-uniformed militia. The exact number cannot be ascertained. According to Captain Snelling, who attempted to count them as they entered the fort, "there were in advance the troops of the 41st regiment, in platoons of fourteen files; as well as the York militia volunteers—twenty nine platoons, two deep, in red coats—that the militia platoons consisted of no more than seven or eight files, and composed one third of the whole force—probably seven hundred and fifty whites, of which the remaining two-thirds were regulars and un-uniformed militia." But let the number be as it may, greater or less, the British General was permitted to land with as many, or as few troops as he chose, without opposition, without an arm raised or a gun fired to resist his progress, although he was seen from the ramparts of the fort to cross the river, and Gen. Hull informed of the fact.

The American force amounted to at least one thousand men fit for duty. Among the troops in garrison on the day of the surrender, there were two troops of mounted men, a part of the fourth regiment of infantry, several detachments of the first infantry, Capt. Dyson's artillery and the Michigan Legion, who were esteemed to be among the best disciplined and bravest soldiers of the army; also Col. Brush's regiment of militia.

There was also in the fort an abundant supply of field pieces, arms and ammunition, and provisions sufficient to stand a short siege. Disposition was even made by Gen. Hull of the troops, indicating that he intended to defend his flag and punish the temerity of his antagonist. The forces were drawn out and formed into line. The militia under Col. Brush, were posted in defence of the town. Col. Findlay's regiment of near five hundred strong, together with the Michigan Legion, formed a line in advance of the Fort towards Springwells, and so as to close with the militia under Col. Brush. The artillery, ammunition, and part of the fourth Regiment were at the batteries on the bank of the river.

The Fort itself was defended by a part of the fourth regiment of infantry, and was amply provided with means of defence, even if our troops had been forced to retreat to it. It stood on an eminence, the highest ground within a circumference of several miles. As described by an officer who had charge of the ordnance department at that time, it was a regular half bastion fort, composed of four curtains and four half bastions, about one hundred yards on each face, not including the half bastions, about seventy-five yards being the extreme length of the curtain. It was partly made of earth; the parapet was eleven feet in elevation; the thickness of the top of the parapet was about twelve feet; the banquet for infantry six feet from the foundation or level of the Fort, and five feet for the parapet; the whole width of the rampart at its base twenty-six feet. At the bottom of the exterior or slope of the parapet there was a horizontal space of ground about two or three feet in width, extending around the whole circumference of the work. The ditch upon an average was from five to six feet deep, and at the bottom twelve feet wide. In the bottom of the ditch around the Fort, there was a row of pickets of cedar, nearly new, and twelve feet high; they were fastened together by a rib. The gate was thoroughly made of plank with spikes; over the gate was a look-out house strongly built; cannon were mounted in the embrazures; the fort was generally in good order, and in good repair. There was in the Fort at that time, thirty-five pieces of ordnance, from twenty-four pounders down to six inch howitzers, twenty-five hundred stand of arms, fourteen thousand cannon balls, seventeen hundred shells, four thousand hand grenades, three and a half tuns of lead, some of which was run into balls, one hundred thousand flints, seven hundred rounds of fixed ammunition for the cannon, and about ten thousand pounds of powder.

Major Jessup had obtained the consent of Gen. Hull to take out some pieces of artillery to fire upon the enemy as they approached. He was proceeding to his command when he noticed that the line which had been so advantageously formed for driving the enemy back, was breaking up and retreating to the Fort. Inquiring of an officer what it meant, he was told to "look to the fort." He did so, and there saw a white flag flying. Riding up to the fort, he

inquired of Gen. Hull "if it was possible he was about to surrender?" He received an affirmative reply. The troops were all ordered to the fort. The aids of the British General were there to complete the capitulation—articles were entered into, by which Fort Detroit, with all the troops, regulars as well as militia, were surrendered to the British forces under Major General Brock, and both were considered prisoners of war, except such of the Michigan militia as had not joined the army. Public property of every description was given to the enemy. The detachment of Ohio militia at the Raisin, and Col. McArthur's detachment, were included in the conditions of the stipulation. The officers and soldiers of the Michigan and Ohio militia and volunteers, were permitted to return to their homes, not to serve during the war, unless exchanged. The American soldiers marched out of the fort at 12 o'clock on the 16th of August, and the British forces took possession. The regulars of the United States army were taken prisoners to Quebec. Gen. Hull was taken to Montreal, and was afterwards exchanged.

The British established a temporary government under Proctor, and stationed a small force in the fort. The citizens of the territory and town suffered dreadfully from the Indians. They were numerous and insolent, claiming as a right the privilege of plundering and laying waste every house and farm in the territory. It is well known that the worst passions of these savages were excited by their British allies against the American people. They lost no opportunity of gratifying their vindictiveness and ferocious enmity.

Gen. Brock appears to have been quite as much surprised, as pleased, at his unexpected success. His communication to Provost, announcing the fall of Detroit, was written upon the spot, and at the moment of his triumph—under the exhilaration of an unlooked for and bloodless victory. It bears date, "Detroit, August 16th, 1812," and says: "I hasten to apprise your Excellency of the capture of this very important post. Twenty-five hundred troops have this day surrendered prisoners of war, and about twenty-five pieces of ordnance, have been taken without the sacrifice of a drop of British blood. I had not more than 600 troops, including militia, and about 600 Indians, to accomplish this service. When I detail my good fortune, your Excellency will be astonished."

Thus occurred this memorable transaction, which excited in the bosom of every American, feelings of the deepest indignation. Never had the American army, until then, yielded to the arrogant demands of an enemy, or been compelled by its commander, quietly to submit, without striking a single blow in defence. Had Gen. Hull listened to the advice which he received from his brave officers, and planted a battery at Springwells, Gen. Brock would never have stepped on American soil. He would have been forced to abandon his attempt to land, or else subjected his men to total and complete destruction. Had he permitted his soldiers to fire upon the enemy after they had landed, they would have been cut to pieces on their march from Springwells to the town. Gen. Hull might at that time have so disposed of his troops and artillery, as to shoot them down as they approached. Such was the unanimous opinion of the officers and soldiers; nay of all, who were participants in the scene. But not the slightest effort at resistance was made. Not a man in our army, but was on the alert, anxiously waiting the order for attack. They stood by their guns, ready to deal death and destruction upon the advancing columns of their enemies. Hope animated all, for they reasonably expected that the moment of victory had arrived, and each one had nerved his arm to strike a blow that would bring triumph to his flag. But alas, no such order was given. The lips of the commanding General were sealed. Not a word of hope or encouragement did he utter; not even an order to fire a single gun. He did at length give an order, but it was one which struck horror and anguish to the hearts of the brave men, who saw their enemies before them, within their reach, and yet were prevented by obedience to military discipline from obtaining a proud and glorious triumph over the presumptuous invaders—it was an order to retreat to the Fort. They reluctantly obeyed, and as they turned towards the Fort, they saw spread to the breeze, and flying in triumph over the star spangled banner, the white flag of surrender. At that sight, the heart of that army, as if it was that of one man, was chilled to the core. It was then too late to change the current of events. Had the intention of Gen. Hull been known but a little earlier, some one of the brave spirits, whom he outranked, would have placed himself at the head of the army and driven the enemy from American territory.

None could comprehend the motive or cause of this disgraceful surrender. No one expected it. When the intelligence reached the eastern frontier, soon after they had heard there of Col. Cass' successful efforts in Canada, it was received with doubt, and many would not believe it. Col. Cass, in his letter to the War Department, giving a true and impartial statement of the transaction, says "the General must have taken counsel only of his own feelings, for no one anticipated a surrender; even the women were indignant at so shameful a degradation of American character."

Gen. Hull, in his official dispatch to the Secretary of War, communicating the fall of Detroit, bears testimony to the noble spirit which pervaded his officers and men. He says: "A large portion of the brave and gallant officers and men I commanded, would cheerfully have contested until the last cartridge had been expended, and the bayonets worn to the sockets." "Before I close this dispatch, it is a duty I owe my respectable associates in command, Colonels McArthur, Findlay, Cass, and Lieut. Miller, to express my obligations to them for the prompt and judicious manner they have performed their respective duties. If aught has taken place during the campaign, which is honorable to the army, these officers are entitled to a large share of it. If the last act should be disapproved, no part of the censure belongs to them."

Gen. Hull was afterwards brought to trial for his conduct, while in command of the army of the Northwest. He was convicted by the Court Martial, and sentenced to be shot. In consideration of his revolutionary services, the sentence was remitted by the President of the United States.

While this scene was transacting—while the British General was receiving from Gen. Hull the delivery of the American Fort and army, Col. Cass, inspired by patriotism and an ardent desire to render his country all possible service, was on duty with his detachment threading with his soldiers the wild and devious pathway of the wilderness. The detachment had, despite the serious obstacles which at every step, almost, retarded its progress, under the cheering presence of its officers, proceeded nearly twenty miles on its route. This was accomplished on the night of the 14th, having marched most of the night. Sometime after midnight they halted and rested until morning. The march was then resumed

and continued all day. Towards evening on the 15th, the guides and mounted men who had been sent in advance to see if Capt. Brush was on his way, returned without having met any one, or discovered anything but Indian trails. By this time the men were completely exhausted from fatigue and want of food. They started without provisions, and none were sent after them as had been promised. They had eaten nothing but green corn and pumpkins, which they got from a field which they passed. A consultation was held among the officers, and it was decided to return to Detroit. This step was forced upon them by the famished and wearied condition of the men. The return march was commenced, but continued only for a short distance, when they halted for rest. It was here that Cols. Cass and McArthur first learned that Gen. Brock had reached Detroit river, from a note brought to them from Gen. Hull, the substance of which was that Gen Brock was on the opposite side of the river, and had summoned the town to surrender. They were directed to return as soon as possible. From the tenor of Gen. Hull's note, Col. Cass anticipated an engagement with the British army, and was so anxious to reach the Fort before any decisive movement occurred, that had not the laborious march of the day, and the fatigue of the soldiers prevented, he would have returned that night. At early dawn the next morning they started and traveled until nine o'clock, when they halted for a short time, having reached the river Rouge somewhere near Dearborn. Those only who are conversant from experience with the difficulties and toil of forcing a way through the swamps and morasses of the wilderness, can appreciate the labors of those gallant officers and soldiers. After a short interval, the march was resumed, and soon after, firing of cannon was heard in the direction of Detroit. This hastened their movements. They hoped to get there in time to participate in the defence of the Fort, intending to come to the aid of the garrison by attacking the British in the rear, if they should find that Brock, by the fortunes of war, or other causes, had succeeded in treading upon American soil. The firing did not long continue after it was first heard. When it ceased, the suspense which tortured the minds of Cols. Cass and McArthur can be better conceived than described. What the result was, they could not determine. Gen. Hull's retreat from Canada had not

contributed to awaken in them any additional confidence in his judgment or capacity for conducting the campaign. Hence they were in doubt. It was indeed no desirable position for those two brave and gallant officers, to be miles from the scene of supposed conflict, yet within the sound of the cannon, but unable from irremediable necessity to bring their forces to combat with the enemy

While brooding over the chances, which appeared to be against them, and lamenting the fortune which prevented them from winning for their country and themselves, the glory and advantages of victory over the enemy, they were met by some persons from Detroit, who informed them that the town and Fort were surrendered by Gen Hull, and in possession of the British army. They could not believe the report. It was too repugnant to their proud and patriotic spirits to admit that the star spangled banner, which but two days previous they had left gaily sporting in the free winds, on the flag post of their Fortress, was trailing in the dirt at the feet of an enemy. The sad and unwelcome news was too soon confirmed by the return of their own scouts whom they sent to ascertain the state of affairs at Detroit. On receiving this intelligence a council of officers was held, which resulted in a decision to fall back a few miles to the River Rouge, and take position at a bridge which afforded some advantages for defence. Here the soldiers killed an ox, roasted it, and eat it without bread or salt, being their first meal since they left Detroit on the night of the 14th of August, except some corn and pumpkins. Capt. Mansfield was sent with a flag to the British commander to ascertain upon what terms the surrender had been made, and to notify him that if the surrender was unconditional, the detachment would prepare to defend themselves. Before Capt. Mansfield returned, Capt. Elliott, a British officer bearing a flag, and accompanied by some Indians, approached the detachment. He delivered to Col. McArthur a note from Gen. Hull, and exhibited the articles of capitulation. The note from Gen. Hull, was to the effect that the detachment was included in the capitulation, and directed Col. McArthur to return to Detroit. By the rules of war and military government, there was an obligation on the officers of the detachment to submit to the order of their commander and acquiesce in his proceedings, however repugnant to their inclinations and wishes. In this case,

too, there appeared no alternative but to obey, or subject their men, worn down and exhausted, to an attack from the British and hordes of Indians who immediately after the surrender thronged into the town and vicinity. It was alike impossible to retreat through the woods to Ohio, or advance hostilely to Detroit. They had no provisions, and but a scanty supply of ammunition. The detachment marched to Detroit.

But to the humiliating ceremony of personal submission, Col. Cass would not submit. With the unconquerable spirit of a freeman, he resolved that his sword should not be dishonored by the touch of the enemy. "Traitor!" he exclaimed; "he has verified our worst fears—he has eluded our grasp and disgraced the country. But the enemy shall never receive my sword." With these words, he broke his sword and cast the pieces away.

No evidence is necessary to establish the fact, that Col. Cass, then, as on every other occasion during the war, acted with the bravery and energy characteristic of the patriot and brave soldier; yet it may not be out of place, here to record the unsolicited testimony of the gallant General Jessup, who was the acting Adjutant General of Hull's army, to the patriotism and military capacity of his companion in arms. He says, "as to Gen. Cass, I have served with him in two campaigns, and a part of the time under his orders and attached to his brigade. I have seen him in situations and under circumstances, that would test the courage of any man, and he never faltered; but always acted in accordance with the dictates of high patriotism. Whatever may be the course of others, he is never the apologist of the enemy; but is always found on the side of his country."

No man in the army was more indignant than Col. Cass at the the conduct of Gen. Hull. Once before, and only a few days previous to the closing act of the campaign, he beheld an opportunity for victory and conquest, of most incalculable advantage to the country, lost by the needless and inglorious retreat of the commanding General from Canada. By that inexplicable event, the suspicions of Col. Cass and other officers, were awakened. They became fearful that Gen. Hull contemplated some movement which would prove disastrous to the American cause. Indeed, it is well known, that three officers of high rank, in view of the perilous con-

dition in which cowardice or treachery would have placed the interests and honor of the country, had resolved upon the first indication of a want of patriotism or courage, or reluctance on the part of the commanding General, to fulfil the obligations due to his country, to arrest him and deprive him of his command. The absence of two of those officers, at the time of the surrender of Detroit, defeated the realization of a measure which, doubtless, would have averted the fate of that post. It may be safely asserted, that so far as human power could avail, had Cols. Cass and McArthur been at Detroit on the 16th of August, or could they have reached there before Brock landed, or even before the capitulation was signed, Detroit never would have been tamely given up to the enemy. They, with the other gallant spirits of the army, would each have fought, as long as life lasted, in defence of the flag of the Union. It is more than probable that knowledge, of the absence of those two distinguished and popular officers, induced Gen. Brock to invade our territory.

As soon as Elliott had delivered the order from Gen. Hull to Col. McArthur at the river Rouge, he moved on with his escort, to the river Raisin, to find Capt. Brush, to deliver a similar message to him. He reached the camp of that officer on the 17th. He was seen approaching at some distance from the post, and Capt. Rowland with a small guard was dispatched to receive him. Elliott supposing him to be the commander of the post, delivered the papers which he bore, to him. On reading them, Capt. Rowland was confounded with doubt and amazement, and exclaimed, "treason or forgery!" Elliott was then blindfolded and led to the garrison, to Capt. Brush. Examining the papers, Capt. Brush pronounced them palpable forgeries, and told Elliott he should be detained until further information was obtained, and should be held responsible for the consequences. Elliott and his companions were placed under separate guard. A short time after, soldiers from Detroit came to the camp, and confirmed the surrender of the fort. A council of officers was held on the course to be adopted. It was unanimously agreed that Gen. Hull had no authority to bind the detachment by capitulation, and they were not bound to subscribe to his terms. It was also proposed to break up the camp, destroy the public stores which could not be carried away,

and march to Ohio. Considerations of humanity, towards some families living at the camp, and some soldiers who were in the hospital, prevented the destruction of the stores. The camp was broken up, and the detachment marched back to Ohio.

Col. Cass, in his communication to the Secretary of War, on the subject of this surrender, says in the glowing language of a true hearted patriot—"Our *duty* and our *interest* was TO FIGHT. The enemy invited us to meet him in the field. By defeating him the whole country would have been open to us, and the whole object of our expedition gloriously and successfully obtained. If we had been defeated, we had nothing to do but retreat to the fort, and make the best defence which circumstances and our situation rendered practicable. But basely to surrender without firing a gun—tamely to submit without raising a bayonet—disgracefully to pass in review before an enemy, inferior in quality as well as the number of his forces, were circumstances which excited feelings of indignation more easily felt than described. To see the whole of our men, flushed with the hope of victory, eagerly awaiting the approaching contest; to see them afterwards, dispirited, hopeless and desponding, at least five hundred shedding tears, because they were not allowed to meet their country's foe, and to fight their country's battles, excited sentiments which no American has ever before had cause to feel, and which I trust in God will never again be felt, while *one man remains to defend the standard of the Union.*"

General Hull, in his official account of the transaction, offers in justification of the surrender, the inefficient condition of his army, which he states to have been "worn down by fatigue, sickness, wounds and death," and utterly unable to defend itself against the combined force of British and Indians. As civil Governor of the territory, he felt bound to protect the population of the town and vicinity, from the sacrifice of blood and life, which would have been the consequence, had the result of battle been against him. He dreaded the barbarities of the Indians, upon the defenseless and conquered, in the event of his defeat. Neither the reasons stated in his official dispatch, nor his argument before the court martial, defending his course, satisfied his fellow officers who sat in judgment upon him, nor the people of the country. Public opinion

condemned the act. Time may have greatly mollified the severity of censure pronounced upon him by his countrymen. The motive of humanity which preferred and effected the sacrifice of an army and a nation's honor, to the contingent disasters of merely anticipated defeat, may have weight with the philanthropist and non-resistant; but the recorded evidence of the whole affair, will ever sustain the general judgment of the country—that had Gen. Hull displayed the valor, the activity, and noble daring which characterized his revolutionary career, and made him the recipient of the well merited personal commendation of Gen. Washington, and of the approbation of his countrymen for his services at Trenton, Stoney Point, and Saratoga—the stars and stripes would not have fallen from the flag post of Detroit. They might have been torn, and tattered, and riddled by the enemy's bullets; but every rent would have been a history of glorious achievement, and every bullet hole a star of glory, for the brave and victorious defenders.

The general incredulity, in which the news of Hull's surrender was every where received, is the best evidence of its unexpectedness, and utter non-necessity. Even at the very moment when articles of capitulation were being prepared in the American Fort, crowded with mortified and enraged officers and soldiers, the people of the States were rejoicing at the reports that were rife among them, that the American army had full possession of the Western frontier of Canada, and had driven the enemy from their important post at Malden. The transition from joy at the belief that the object of the expedition was accomplished to gloom and sorrow for the certainty of its complete failure was sudden, but it had the effect of arousing a spirit throughout the country, active, determined and effective, for avenging the disaster.

The General Assembly of Ohio, at its session in December, 1812, adopted resolutions commendatory of the promptitude, courage and honest zeal manifested by the officers and soldiers of the Ohio volunteers. The resolutions accompanied by a complimentary and approving letter from Gov. Meigs, were transmitted to Colonels Cass, Findlay and McArthur, the commandants of the three regiments, composing the corps of volunteers.

The letter and resolutions are here annexed:—

CHILICOTHE, Dec. 28th, 1812.

SIR—In compliance with a request of the General Assembly of the State of Ohio, I transmit you the enclosed resolutions.

This act I perform with much satisfaction, because the principles expressed in the resolutions I deem correct, and know that the applause bestowed was truly merited by the *volunteers of Ohio*, which, though unfortunate, were brave, and have exhibited a laudable example of promptitude, courage, and zeal worthy the imitation of the whole militia of the State.

To the approbation of the General Assembly, permit me, sir, to add my sincere commendation of the soldierly deportment of the corps under your command.

Be pleased, sir, to accept the assurance of my consideration.

R. J. MEIGS.

Resolutions concerning the conduct of the corps of volunteers from this State, during and previous to the late campaign under the command of General Hull.

Whereas, It is deemed of vital importance to every republican government, that an ardent love of country should characterize its inhabitants. Whereas, those are *especially deserving* of the gratitude of their country, who stand forth early, and with alacrity in its defence; and whereas this General Assembly has been advised of the promptitude and honest zeal with which the corps of volunteers from this State, (lately under the command of Gen. Hull,) assembled, were organized and marched into the enemy's country and of their bravery and general good conduct, the fore

Be it resolved, by the Senate and House of Representatives of the State of Ohio, That the thanks of this State are due to the *officers* and soldiers comprising the said corps, for the patriotism, bravery and general good conduct, which they evinced during their late arduous and disastrous campaign.

Be it further resolved, That the Governor of this State be requested to forward to each of the late commandants of the three regiments composing said corps, a copy of these resolutions; and that he take such further notice of them in his general orders, as Commander in Chief of the miiltia of the State, as propriety may direct.

JOHN POLLOCK,
Speaker of the House of Representatives.

THOMAS KISKER,
Speaker of the Senate.

A month having elapsed, subsequent to the surrender of the North-western Army and the town of Detroit, and no official report having been received at Washington, of the transaction, Col. Cass, who was there on parole, prepared and submitted to the Secretary of War, the following communication of the disastrous and inglorious affair :—

LETTER OF COLONEL CASS,

Of the Army late under the command of Brigadier General William Hull to the Secretary of War. Washington, Sept. 10, 1812.

Sir—Having been ordered on to this place by Col. M'Arthur, for the purpose of communicating to the government, such particulars respecting the expedition lately commanded by Brigadier General Hull, and its disastrous result, as might enable them correctly to appreciate the conduct of the officers and men, and to develope the causes which produced so foul a stain upon the national character, I have the honor to submit to your consideration the following statement:

When the forces landed in Canada, they landed with an ardent zeal and stimulated with the hope of conquest. *No enemy appeared within view of us*, and had an immediate vigorous attack been made upon Malden, it would doubtless have fallen an easy victory. I know Gen. Hull afterwards declared he regretted this attack had not been made, and he had every reason to believe success would have crowned his efforts. The reason given for delaying our operations, was to mount our heavy cannon and afford the Canadian militia time and opportunity to quit an obnoxious service. In the course of two weeks, the number of their militia who were embodied had decreased by desertion from six hundred to one hundred men—and, in the course of three weeks, the cannon were mounted, the ammunition fixed, and every preparation made for an immediate investment of the fort. At a council, at which were present all the field officers. and which was held two days before our preparations were completed, it was unanimously agreed to make an immediate attempt to accomplish the object of the expedition. If by waiting two days we could have the service of our heavy artillery, it was agreed to wait—if not, it was determined to go without it, andto attempt the place by storm. This opinion appeared to correspond with the views of the General, and the day was appointed for commencing our march. He declared to me, that he considered himself pledged to lead the army to Malden. The ammunition was placed in the wagons—the cannon were embarked on board the floating batteries, and every requisite article was prepared. The spirit and zeal, the ardor and animation displayed by the officers and men, on learning the near accomplishment of their wishes, was a sure and sacred pledge that in the hour of trial they would not be wanting in their duty to their country and themselves. But a change of measures, in opposition to the wishes and opinions of all the officers, was adopted by the General. The plan of attacking Malden was abandoned, and instead of acting offensively, we broke up our camp, evacuated Canada, and re-crossed the river in the night, without even the shadow of an enemy to injure us. We left to the tender mercy of the enemy the miserable Canadians who had joined us, and the *Protection* we afforded them was but a passport to vengeance. This fatal and unaccountable step dispirited the troops, and destroyed the little confidence which a series of timid, irresolute and undecisive measures had left in the commanding officer.

About the 10th of August, the enemy received a reinforcement of four hundred men. On the 12th, the commanding officers of three of the regiments (the fourth was absent) was informed through a medium which admitted of no doubt, that the general had stated, that a capitulation would be necessary. They on the same day addressed to Gov. Meigs of Ohio, a letter, of which the following is an extract:

"Believe all the bearer will tell you.—Believe it, however it may astonish you, as much as if told you by one of us. Even a c———— is talked of by the The bearer will fill the vacancy."

The doubtful fate of this letter rendered it necessary to use circumspection in its details, and therefore these blanks were left. The word "capitulation" will fill the first, and "commanding general" the other. As no enemy was near us, and as the superiority of our forces was manifest we could see no necessity for capitulating, nor any propriety in alluding to it. We therefore determined in the last resort to incur the responsibility of divesting the general of his command. This plan was eventually prevented by two of the commanding officers of regiments being ordered upon detachments.

On the 13th, the British took a position opposite to Detroit, and began to throw up works. During that and the two following days, they pursued their object without interruption, and established a battery for two 18 pounders and an 8 inch howitzer—About sunset on the evening of the 14th, a detachment of 350 men from the regiments commanded by Col. M'Arthur and myself, was ordered to march to the river Raisin, to escort the provisions, which had some time remained there protected by a party under the command of Capt. Brush.

On Saturday, the 15th, about one o'clock, a flag of truce arrived from Sandwich, bearing a summons from Gen. Brock, for the surrender of the town and fort of Detroit, stating, he could no longer restrain the fury of the savages. To this an immediate and spirited refusal was returned. About four o'clock their batteries began to play upon the town. The fire was returned and continued without interruption and with little effect till dark. Their shells were thrown till eleven o'clock.

At day light the firing on both sides re-commenced—about the same time the enemy began to land troops, at the Springwells, three miles below Detroit, protected by two of their armed vessels. Between 6 and 7 o'clock they had effected their landing, and immediately took up their line of march. They moved in a close column of platoons, twelve in front upon the bank of the river.

The fourth regiment was stationed in the fort—the Ohio volunteers and a part of the Michigan militia, behind some pickets, in a situation in which the whole flank of the enemy would have been exposed. The residue of the Michigan militia were in the upper part of the town to resist the incursions of the savages. Two 24-pounders loaded with grape-shot were posted upon a commanding eminence, ready to sweep the advancing column. In this situation, the superiority of our position was apparent, and our troops in the eager expectation of victory, awaited the approach of the enemy. Not a sigh of discontent broke upon the ear, nor a look of cowardice met the eye. Every man expected a proud day for his country, and each was anxious that his individual exertion should contribute to the general result

When the head of their column arrived within about five hundred yards of our line, orders were received from General Hull for the whole to retreat to the Fort, and the twenty-four pounders not to open upon the enemy. One universal burst of indignation was apparent upon the receipt of this order. Those whose conviction was the deliberate result of a dispassionate examination of passing events, saw the folly and impropriety of crowding 1100 men into a little work which 300 could fully man, and into which the shot and shells of the enemy were falling. The Fort was in this manner filled: the men were directed to stack their arms, and scarcely was an opportunity afforded of moving. Shortly after a white flag was hung out upon the walls. A British officer rode up to enquire the cause. A communication passed between the commanding generals, which ended in the capitulation submitted to you. In entering into this capitulation the general took counsel from his own feelings only.

Not an officer was consulted. Not one anticipated a surrender, till he saw the white flag displayed; even the women were indignant at so shameful a degradation of the American character; and all felt as they should have felt, but he who held in his hands the reins of authority.

Our morning report had that morning made our effective men present fit for duty 1060, without including the detachment before alluded to, and without including 300 of the Michigan militia on duty. About dark on Saturday evening the detachment sent to escort the provisions, received orders from Gen. Hull to return with as much expedition as possible. About 10 o'clock the next day they arrived within sight of Detroit. Had a firing been heard or any resistance visible, they would have advanced and attacked the rear of the enemy. The situation, in which this detachment was placed, although the result of accident, was the best for annoying the enemy and cutting off his retreat that could have been selected. With his raw troops enclosed between two fires and no hope of succor, it is hazarding little to say, that very few would have escaped.

I have been informed by Col. Findley, who saw the return of their quarter-master-general, the day after the surrender, that their whole force of every description, white, red and black, was 1030. They had twenty-nine platoons, twelve in a platoon, of men dressed in uniform. Many of those were evidently Canadian militia. The rest of their militia increased their white force to about seven hundred men. The number of their Indians could not be ascertained with any degree of precision; not many were visible. And in the event of an attack upon the town and fort, it was a species of force which could have afforded no material advantage to the enemy.

In endeavoring to appreciate the motives and to investigate the causes which led to an event so unexpected and dishonorable, it is impossible to find any solution in the relative strength of the contending parties, or in the measures of resistance in our power. That we were far superior to the enemy; that upon any ordinary principles of calculation we would have defeated them, the wounded and indignant feelings of every man there will testify.

A few days before the surrender, I was informed by Gen. Hull, we had 400 rounds of 24 pound shot fixed and about 100,000 cartridges made. We surrendered with the fort 50 barrels of powder and 2500 stand of arms.

The state of our provisions has not been generally understood. On the day of surrender we had 15 days provisions of every kind on hand. Of meat there was plenty in the country, and arrangements had been made for purchasing and grinding the flour. It was calculated we could readily procure three months' provisions, independent of 150 barrels of flour, 1300 head of cattle which had been forwarded from the State of Ohio, and which remained at the River Raisin, under Capt. Brush, within reach of the army.

But had we been totally destitute of provisions, our duty and our interest was undoubtedly to fight. The enemy invited us to meet him in the field.

By defeating him the whole country would have been open to us, and the object of our expedition gloriously and successfully obtained. If we had been defeated, we had nothing to do but to retreat to the fort, and make the best defence circumstances and our situation rendered practicable. But basely to surrender without firing a gun—tamely to submit without raising a bayonet—disgracefully to pass in review before an enemy as inferior in the quality as in the number of his forces, were circumstances which excited feelings of indignation more easily felt than described.

To see the whole of our men flushed with the hope of victory, eagerly awaiting the approaching contest, to see them afterwards dispirited, hopeless, desponding, at least 500 shedding tears because they were not allowed to meet their country's foes, and to fight their country's battles, excited sensations which no American has ever before had cause to feel, and which I trust in God will never again be felt, while one man remains to defend the standard of the Union.

I am expressly authorized to state, that Colonels M'Arthur and Findley, and Lieutenant Colonel Miller viewed the transaction in the light which I do. They knew and I feel, that no circumstance in our situation, none in that of the enemy, can excuse a capitulation so dishonorable and unjustifiable. This too is the universal sentiment among the troops; and I shall be surprised to learn, that there is one man, who thinks it was necessary to sheath his sword, or to lay down his musket.

I was informed by General Hull, the morning after the capitulation, that the British forces consisted of 1800 regulars, and that he surrendered to prevent the effusion of human blood. That he magnified the regular force nearly five fold, there can be no doubt. Whether the philanthropic reason assigned by him is a sufficient justification for surrendering a fortified town, an army and a territory, is for the government to determine.

Confident I am, that had the courage and conduct of the general been equal to the spirit and zeal of the troops, the event would have been as brilliant and successful as it now is disastrous and dishonorable.

Very respectfully, Sir, &c.

LEWIS CASS,
Col. 3d Regiment, Ohio Vol.

Hon. William Eustis, Secretary of War.

CHAPTER III.

Effect of surrender of Detroit—Volunteers of 1812—Symmes' "Card"—Indian warfare—Cruelties of the Savages—The massacre at the River Raisin—The Defence of Fort Stephenson by Croghan and his brave compeers.

The surrender of Detroit, after the first momentary shock of its announcement, aroused the spirit and patriotism of the entire country, particularly among the Western people, who felt especially aggrieved by the disaster. A feeling, amounting to enthusiasm, pervaded the whole community. The country was electrified. The call to arms was hailed with rapture by the pioneer population of the West. Men capable of bearing arms vied with one another who should be first to enroll themselves. Men of all ranks and stations in life, filled the rolls of volunteers. By the twenty-fifth of August, nine days after the surrender, four thousand men, armed and equipped, voluntarily assembled at Urbana, in Ohio. Governor Meigs, of that State, was honorably and conspicuously active in encouraging the patriotism manifested by his fellow citizens. Kentucky, Virginia, Ohio, Maryland and Pennsylvania, poured forth their best citizens by thousands. The City and County of Baltimore proposed alone to raise an entire regiment. On the spur of the moment, eighteen hundred Kentuckians marched from Newport. The gallant Col. Richard M. Johnson, then member of Congress from Kentucky, proposed to raise five hundred mounted men, and march forthwith to Detroit, trusting to the liberality of Congress for future indemnification. Kentucky was represented on different portions of the Western frontier by at least six thousand of her brave volunteers. Virginia sent out fifteen hundred men, for whom the ladies of Richmond made knapsacks and tents. The same hearty patriotism, manifesting itself by deeds, existed in every section of the country. Even the opponents of the war were effected by it, and many of them became strenuous advocates of what they had previously opposed.

As characteristic of the feeling which animated the West, the following Card, which appeared in the newspapers of that day, is here inserted :

A CARD.—Col. Symmes, of the senior division of the Ohio Militia, presents his respectful compliments to Major-General Brock, commanding his Britanic Majesty's forces, *white* and *red*, in Upper Canada. Colonel Symmes observing that by the 4th article of Capitulation of Fort Detroit, to Major-General Brock, all public arms moving towards Detroit, are to be delivered up, but as no place of deposit is pointed out by the capitulation, *forty thousand stand of arms*, coming within the description, are at the service of Major-General Brock, if his Excellency will condescend *to come and take them*"

The required number of men were soon in the field. Brigadier General William H. Harrison, of the United States Army, was commissioned as Major-General by the Governor of Kentucky, and assumed command of the army, numbering about ten thousand men.

In the wars which have taken place on this continent, between rival nations, the Indian tribes have been engaged. The British and the French employed them in their quarrels; and in the Revolutionary War, and in the war of 1812 the Indians fought on the side of the British. History abounds with heart-rending accounts of Indian outrage, perpetrated during the Revolution, and the recollection of the bloody massacres of the last war, is yet vivid in the remembrance of our citizens. No language can convey an adequate idea of the horrors and barbarities of Indian warfare. The Indian, from earliest infancy, is initiated into the cruelties and tortures of exterminating hostilities. War to the knife—the knife to the handle, is the first teaching he receives from the lips and example of his father and brothers. His ambition is to use the scalping knife and tomahawk with skill and success. The scalp is more precious than the prisoner. In the conflict, he neither asks nor gives quarter. He or his enemy must lie dead on the field. Exceptions there are, it is true, to this general practice, but it is a most bloody and cruel mercy that stays the death-blow. The conquered victim had better, by far, fall dead beneath the arm of his antagonist, than follow as a prisoner to the wigwam. In the latter case he is reserved for far more dreadful sufferings at the stake, oftentimes to be prepared to suit the cannibal tastes of his victor.

With atrocious disregard of the dictates of humanity, the British government did not hesitate to enroll the murderous savages in

close alliance with their regular soldiers. They did this with the full knowledge of the difficulty of restraining them, when once the fight begun, within the recognized limits of civilized warfare. In all these instances, too, the bloody instinct of the savage was referred to by their Christian employers, to intimidate and force their enemies to surrender.

At the commencement of the war of 1812, the American government used every possible means to induce the Indians to remain neutral and quiet; but the passion for war, and strong inducements offered to them by the British Government, were too powerful to be resisted. They were seduced by promises and costly presents, to join hands against the United States, and led by talented and influential chiefs, they rendered many and valuable services to their Christian allies.

It is not within the scope of this work to enumerate the frequent and barbarous butcheries of innocent and defenceless women and children, or the merciless and disgraceful slaughters which were permitted by the British officers, when the fortunes of war were in their favor. We have gone more into the detail of Indian characteristics than might seem appropriate to the present undertaking. But it will be recollected that the subject of this work, passed the greater part of the active portion of his life, surrounded by the warriors of the woods—within hearing of the dread war-whoop—and a witness of the solemnities of the war dance; that it was his duty as the representative and dispenser of the authority of his government, to negotiate treaties of peace and amity with them, or if needs be shoulder his rifle and lead his men to conquering combat against them. To give some idea of the fierce and turbulent spirits with whom he had to deal is the object of introducing here and elsewhere, the evidences of the difficulties and dangers which beset the path of him who is brought in contact with the Indian, either in peace or war.

In January, 1813, the American army met with a sad reverse at the River Raisin, in Michigan. This conflict is marked with incidents of horror and barbarity, which stamp it as one entire scene of bloody butchery on the part of the enemy, which finds no parallel in the history of war, where either of the contending parties

make pretensions to civilization. This battle is known as the "Massacre at the River Raisin."

Colonels Lewis and Allen, were ordered by Gen. Winchester, who was with the left wing of the army at Fort Defiance, to proceed with detachments to Frenchtown, a settlement on the River Raisin, where the enemy were in force, annoying the inhabitants. The detachments arrived at Frenchtown in the afternoon of the 18th of January, 1813. The enemy had made preparations to receive them, and opened a fire upon them when they approached to within a quarter of a mile of the town. The river divided the two forces. Colonel Lewis crossed with his command on the ice, and drove the enemy from the houses and pickets, where they were posted, into the woods. There they made a stand, until they were again dispersed and forced to retreat, under a continual charge from their pursuers. At dark, the detachment was drawn off and encamped on the spot from whence they had dislodged the enemy. The vanquished consisted of a combined force of one hundred British soldiers and four hundred Indians, under command of Major Reynolds. Success was complete. The report of this achievment at General Winchester's head quarters, created an excitement there among the troop, which could only be satisfied by their marching forthwith to join Colonel Lewis. Winchester yielded to the desire of his officers and men. He joined Lewis on the 20th of January, with two hundred and fifty men, and took command. On the morning of the 22nd, at daybreak, the American camp was attacked by the British and Indians. The number of the assailants was somewhere about fifteen hundred. The American force only eight hundred. The attack was made by a heavy fire of musketry and field pieces. It was made so suddenly and unexpectedly, that there was no time for forming the troops advantageously; to this difficulty, was added the unfavorable nature of the ground. The assault was sustained with great firmness and bravery for some time, when the right division of the forces, which was terribly exposed in an open field to a heavy fire, was ordered to retreat, with the object of occupying ground less exposed. This movement was discovered by the enemy, and the entire Indian force, with a portion of the militia, directed their efforts to break them and throw them into disorder. By their superiority in numbers, they

succeeded in preventing this part of our forces from again forming in order for battle. Indeed, few of this division escaped; they were surrounded by Indians and gallantly fought until their numbers were so reduced, that they were forced to surrender. A Major, Captain, and about twenty-five soldiers only escaped. While attemping to reform this division into line, Gen. Winchester and Colonel Lewis were surrounded and taken prisoners. The troops who remained at the breast-work, defended themselves with desperation against fearful odds. It became evident to General Winchester and his officers, that a continuance of the contest against the superior numbers of the enemy, was but an unjustifiable sacrifice of the brave men, whose ranks were continually growing thinner. It was resolved to surrender the few that remained, as prisoners of war, on condition that their lives should be spared, and their private property protected. The truth was, that no alternative remained but surrender or general massacre. The ammunition was nearly exhausted, the enemy were concentrating their forces with a view to burn the town, and it was declared that no attempts would be made by the British officers to restrain the ferocity of the savages, who surrounded the place in great numbers Under these circumstances Gen. Winchester surrendered.

In this conflict many feats of noble daring were performed by officers and men. The enemy had taken possession of a barn, within rifle shot of the American camp; here they were perfectly sheltered, while they fired into our pickets. It became important to dislodge them from their safe position. A single soldier undertook the task, and with almost a certainty of sacrificing himself, rushed from the pickets, with a lighted torch, to the barn, and set it on fire. The barn was consumed. The heroic volunteer had the good fortune to return in safety to the camp, amid a shower of balls from the enemies' muskets.

Every promise made by the British commander was violated. The Indians gratified their bloody propensity without restraint. Some of their prisoners after the surrender, were tomahawked; some were shot, others were tortured and burned alive by the savages. The houses of our people were pillaged and destroyed. The prisoners who were not killed, were treated in the most inhuman manner by the Indians, in the presence of British officers, and

no remonstrance or effort was made to retain them. In violation of oft-repeated assurances from Col. Proctor, that the prisoners, particularly the wounded, should be provided for as their necessities required and be conveyed in sleighs from the Raisin to Malden, they were placed in charge of the ruthless and exasperated savages. They were made to travel on foot through deep snow; and those who were unable from their wounds to keep pace with the swift footed tormentors, were tomahawked and scalped, and left by the roadside unburied. Among the wounded was Capt. Nathaniel Hart, of Kentucky; a near relative of Henry Clay. This officer was captured after being wounded in the knee. He was not able to move, and at the request of an officer was mounted on horseback. While thus situated and actually under the protection of a British officer, an Indian near by fired at him, and hit him on the head. He did not, however, fall from his seat, until another Indian struck him on the head with a club, and beat him to the ground; he was then scalped, stripped of his clothing, and left on the ground until under cover of night, two days afterwards, his body was taken into the woods, by three of the inhabitants, and covered with brush wood to protect it from mutilation by the hogs. The men did not dare to bury the corpse for fear of the Indians. The rights of sepulture for the dead of our army were forbidden by the inhuman Proctor, and their bodies remained exposed for the horrid feastings of dogs and hogs Bodies which had been stealthily buried were exhumed by the red fiends. When the Kentucky volunteers, in the latter part of the same year, marched over the scene of massacre to join Gen. Harrison in pursuit of Proctor, they were greeted with the view of the bleached remains of their relatives and friends, still whitening on the ground. They gathered them together and buried them with the honors of war.

Many of the prisoners who escaped the tomahawk of the savage were subsequently purchased of their Indian captors by the citizens of Detroit, and liberated. Gen. Winchester and his officers were taken to Quebec.

On the day succeeding the battle, the Indians continued their atrocities. In one instance they set fire to a house in which were forty-eight prisoners. Some of these unfortunate men attempting to escape were shot down as they appeared at the door; others

were driven back and killed in the house, and were consumed with it.

A citizen while going to his house alone and unarmed, was fired at and wounded. He was able to reach home: his father-in-law opened the door to let him in; he just got within the house when he fell dead upon the floor. The Indians who shot him followed immediately, and reaching the house demanded admission. The door was opened by the old man, who was instantly shot down by the Indians.

Dr. Gustavus M. Bower, surgeon's mate in the fifth regiment Kentucky volunteers, who was in the house of Jean Baptiste Jereaume with the wounded prisoners, states that on the morning after the battle, about daylight, six or eight Indians came to the house. They sauntered about without molesting any one, until their number was increased to two hundred, when they commenced plundering the inhabitants and killing the wounded. Dr. Bower was seized by an Indian, divested of a part of his clothing, and taken and placed upon a horse a short distance off, with orders from his captor to remain there. From this spot he watched the actions of the Indians. He saw Captain Hickman knocked down, with several others, at the door. Supposing from this that a general massacre was to take place, he attempted to reach a house about one hundred yards distant, to give the persons confined there warning of their danger. Approaching the house, he saw that it was surrounded by Indians, and was thus precluded from effecting his purpose. His presence was at this moment discovered by an Indian chief, named McCarty, who came up to him and delivered his horse and blanket to him, and told him to go back to the house he had left. The Indian who first captured Bower now came up and raised his tomahawk to kill him, but was prevented by McCarty. Dr. Bower then obeyed McCarty's orders, and when he reached the house, saw the Indians leading away some prisoners, whom he afterwards saw lying in the road, horribly mangled and naked. Bower and several others were then collected around a cariole which was filled with plunder. One of the men named Blythe, endeavored to persuade his captor to take him to Malden, for which he offered him fifty dollars. While making this agreement, another Indian stepped up behind Blythe and tomahawked, scalped and

stripped him. Bower's attention was then attracted to the burning houses, which he knew contained prisoners who were unable to get away. The houses being nearly consumed, the Indians marched off with Bower and a few others. At Sandy Creek they stopped and prepared food. They were eating, when an Indian proposed to Searl, one of the prisoners, to exchange his moccasins for Searl's shoes which he did. They then exchanged hats, and the Indian struck Searl upon the shoulder with his tomahawk; cutting into his body. Searl caught hold of the weapon and attempted to resist, but seeing that his fate was inevitable, he closed his eyes and quietly awaited the fatal blow, which clave his skull in two. Soon after, three others shared the same fate. Bower was soon after taken to Detroit and ransomed by the citizens of that place. Many other instances might be given of the sufferings of the prisoners taken at the River Raisin; but sufficient have been narrated to show the unparalleled barbarity of Indian warriors. when conquerors, and to afford the means of estimating the great difficulties and trying circumstances attendant upon the exercise of power and authority over them in time of peace.

At the massacre of Frenchtown, perished many of the noblest sons of Kentucky. Scarce a family of note, in that patriotic State, but bewailed the loss of a beloved relative. At Frankfort, the Governor and many of the citizens were at the theatre when the sad news of Winchester's defeat reached there. The whole audience at once, by one impulse, retired to learn the details of the calamity. Presently fathers were seen going about half distracted, and mothers, wives and sisters, were weeping in the retirement of their homes. The voice of lamentation was heard in nearly every dwelling. But like Hull's surrender, this second disaster contributed to increase the ardor of the people for revenge. While they mourned for the dead, they resolved to revenge their sacrifice.

When Gen. Harrison was informed that Winchester had advanced towards Frenchtown, he immediately prepared to join him with a re-inforcement. Having proceeded about six miles, and ascertained that Winchester's defeat was complete, he resolved to freturn. A detachment of one hundred and seventy men was sent orward to Frenchtown, with directions to proceed as far as possi-

ble to assist those who were fortunate enough to escape—these were very few—the great depth of snow prevented their getting far in advance of their pursuers. They were overtaken and captured.

Immediately after the affair at Frenchtown, General Harrison marched his army to the rapids of the Miami, where he constructed Fort Meigs. Here, in May, 1813, he was besieged by two thousand British and Indians, under Proctor and Tecumseh. The bombardment by land and water continued several days. The enemy first appeared on the 25th of April, and on the 9th of May were repulsed, routed, and forced to abandon the siege. Having ascertained that they had left the vicinity, Gen. Harrison left Fort Meigs under charge of Gen. Greene Clay, and marched to Lower Sandusky.

Remaining there a short time, he proceeded to Franklinton, where the soldiers were to assemble to prosecute the campaign, and retake the territory lost by Gen. Hull. Major Croghan, a young officer of the regular army, was left with one hundred and sixty men at Lower Sandusky, in garrison at Fort Stephenson. Here he was attacked by a large force under Proctor, and with but a single cannon, repulsed them completely. An account of this siege, though familiar to the reader, is worthy of repetition, if it be only to commemorate the invincible courage of the young commander and his youthful companions.

On Sunday evening, August 1st, 1813, six hundred British regulars, and from seven to eight hundred Indians, under the immediate command of Proctor, appeared before Fort Stephensen. He made such disposition of his troops as effectually to cut off the retreat of the garrison if they should attempt one. He then sent Col. Elliott and Major Chambers to demand the surrender of the Fort, with the stereotyped assertion that "he was anxious to spare the effusion of blood, which would be out of his power to effect if he should be compelled to take the fort by storm."

Croghan's reply was, that he was determined to defend the place to the last extremity, and that no force, however large, should induce him to surrender. This reply being communicated to Proctor, he commenced a brisk fire upon the fort from his gunboats in

the river, and a howitzer on shore. The fire was kept up through the night with but little effect. At an early hour the next morning, three six pounders, which, in the night, had been placed on shore within two hundred and fifty yards of the pickets, opened their fire, but with no great effect. From the manœuvres of Proctor, Croghan judged that he would attempt taking it by storming it at its northwest angle. With the best means in his power he strengthened the point of anticipated assault. He had divined the intentions of Proctor. Finding that his guns were ineffectual, Proctor formed his men into two columns. Lieut. Col. Short led the principal one, of one hundred and fifty men, and advanced to within twenty paces of the lines. The garrison opened a destructive fire upon them, which threw them into confusion. They were quickly rallied by their leader, and again advancing leaped into the ditch; just then the single six pounder of the fort was brought into requisition. A fire of grape was poured from it which killed or wounded nearly every man who had entered the ditch. The fall of the advance threw the balance of the column into such disorder and fear, that their officers were unable to rally them. They retired and sought safety in the adjoining woods. During the assault a fire was kept up against the fort, from five six pounders and a howitzer. The only loss sustained by the garrison was, one man killed, one wounded. The loss of the enemy was at least one hundred and fifty. In the ditch were found killed, Lieut. Col. Short, one Lieutenant and fifty soldiers. Early on the morning of the 3d, the enemy sailed down the river, leaving behind them a boat containing clothing and military stores and several stands of arms.

The defence of this fort was a desperate undertaking. The adventurous bravery and daring resolution of the young commander, achieved what the wisdom of more experienced officers would have decided to be impossible. It was truly a forlorn hope for that brave band of youths in their illy protected fort, to expect even to survive the determined attack of their enemies. The pickets were eighteen feet high; the bayonets of the soldiers were nailed upon the side of the upper end, pointing downwards. The charge of the enemy evinced a disposition to conquer the post

at all hazards. In the course of twenty-four hours, they discharged five hundred shots, one hundred of which fell within the fort, happily doing no injury.

Among the incidents of the brilliant defence, showing the confidence of the enemy in obtaining an easy victory, was the insolence of the Indian allies previous to the charge. When Elliott went to demand the surrender of the fort, he was received outside the pickets by Ensign Shipp. While conversing, one of Elliott's Indians came up, and taking hold of Shipp attempted to take off his coat. Shipp drove him off with his sword. The Indian was certain there would be a capitulation, and pleased with Shipp's coat, intended to secure it for himself, in advance. The enemy intended to punish with outrageous barbarity, the refusal of Col. Croghan to surrender. The threat made by Elliott, that if they were compelled to take the fort, there would be a general massacre, would have been realized, had the event of the day been favorable to the besiegers. Col. Short, who led the attack, was not less bloody minded than Proctor and his agents. As he advanced to storm the fort he shouted to his men "to give the Americans no quarters."

Scarcely had he given utterence to the savage order, when he was laid prostrate by a shot from the fort. The man who would refuse quarters, found himself a supplicant for the kindness which he had resolved to deny to others. The men who were ordered to give "no quarters" were relieved and treated with the utmost kindness by the soldiers in the garrison; who while the fire was kept up against them, supplied the suffering and wounded enemy with water from their own canteens.

This victory, for such it may truly be termed, was hailed with joy and gratification. It was the turning point of the war in this section, and was the precursor of decisive and important success, which followed closely upon it, resulting in driving the enemy from his strong holds, and planting the American standard, both upon regained and conquered territory.

CHAPTER IV.

Reception of Col. Cass at Washington—His promotion—Confidence of the Government in him—Is appointed Brigadier General—He joins the army under Harrison—Harrison assigns to Gen. Cass the command of the army at its debarkation on the Canada shore—Proctor's flight—Movements of the army in Canada—Battle of the Thames—Gen. Cass, with Com. Perry, acting as aids to Gen. Harrison—Defeat and flight of Proctor—Is pursued by Gen. Cass—Harrison's testimony to the personal exertions and bravery of Gen. Cass—General Cass is left by Harrison in command at Detroit—Is appointed Governor of the Territory, by President Madison—The responsibilities of his Office—His qualifications—The attachment of the citizens of the Territory—His journey to Albany in midwinter.

Colonel Cass, on repairing to Washington on his parole, was received by the administration with the favor due to his distinguished services, in Canada and Michigan. He held in Hull's army the rank of Colonel of militia. The administration conferred upon him a Colonelcy in the regular service. About the same time he was also elected by the volunteers of Ohio a Major General of militia. He could not, however, at that time, take an active part in the war. He was not enabled to do so until after the commencement of the year 1813. At the time of his appointment as Colonel, so great was the confidence of the government in his ability and judgment, that he was permitted to select his own officers for the regiment to be placed under his command. For this purpose, blank commissions were issued to him by the War Department. Col. Cass was exchanged and released from his parole in the middle of January, 1813. The rank of Brigadier General was conferred upon him in March following. In April, the United States was divided into nine military districts, and General Cass, with Gens. Harrison and McArthur, was assigned to the command of the eighth division, composed of Kentucky, Ohio, Indiana, Michigan, Illinois and Missouri.

In pursuance of his appointment, he left Washington for the west, to join in the patriotic movements there among the volunteers, and attach himself to the command of Major General Harrison. An expedition against Malden was contemplated. General

Harrison was at Senecatown, awaiting the arrival of the Erie flotilla under Perry, to carry his army to Canada. On the 20th of September, 1813, the army, two thousand regulars and three thousand militia, embarked. They reached the Canadian shore, a few miles below Malden, and landed on the 27th of the same month. To Gen. Cass was assigned, by Gen. Harrison, the charge of the army at their debarkation from the vessels. He formed the troops into line and arranged them for their march upon Malden. The following is a part of the general order, addressed to the soldiers: "Kentuckians—remember the river Raisin; but remember it only when the victory is suspended. The revenge of a soldier cannot be gratified upon a fallen enemy."

Within an hour after landing, the American force took possession of the town. Gen. Proctor, who was in command of the British army, retreated up the Detroit river, carrying with him every thing moveable. Before leaving, he burned the fort, navy-yard, barracks, and public store houses.

This sudden flight, betraying cowardice in Proctor, served, in some degree, to alienate his Indian allies. Tecumseh, and other warriors, were indignant that no resistance was to be attempted. In the name of all the chiefs and warriors, Tecumseh addressed a "talk" to Proctor, in which he used plain language to express his displeasure at the treatment they had received.

Gen. Harrison's army were entirely destitute of means of pursuing, expeditiously, the retreating enemy. Proctor had laid the country under contribution, and collected upwards of one thousand horses for the use of his flying army. The only horse in our army at the time, was a small French poney, devoted to the use of the venerable Gov. Shelby, of Kentucky, who was then sixty-five years of age, but as full of military ardor and laudable desire for revenge as any of the young officers around him. On the 29th September, Gen. Harrison moved up to Sandwich, opposite Detroit, crossed over and took possession of the town and territory. He was warmly welcomed by the poor and oppressed inhabitants, who had been so long subjected to the tyranny and robbery of their enemies. He issued his proclamation re-instating the civil government which had been interrupted by Hull's surrender. The officers who were, at the capitulation, exercising authority within the territory, were

authorized to resume their functions; the citizens were restored to the enjoyment of their former rights and privileges, and the laws at that time in force, were re-established. On the 30th of Sept., Col. R. M. Johnson arrived at Detroit, with his regiment of mounted men. With these Gen. Harrison joined his army at Sandwich, and begun his pursuit after Proctor's army. By rapid marches, diversified by skirmishes with parties of the enemy, he overtook Proctor near the Moravian town, on the river Thames, in Canada, eighty miles from Detroit. On the evening of the fifth of October he forced the enemy to fight, and achieved a complete victory over the combined British and Indian forces.

The road by which the Moravian town was reached, at about the distance of three miles from the settlement ran through a dense beech forest, and for most of the way near the bank of the river Thames. A swamp ran parallel with the river, distant from it a few hundred yards. The ground between is high and dry. Across this strip of land the British and Indian force were drawn up when Harrison came up with them. The American army was then formed for attack. Gen. Trotter's brigade formed the front line, his right upon the road, his left upon the swamp. Gen. King's brigade as a second line, one hundred and fifty yards in the rear of Trotter's, and Child's brigade as a corps of reserve in the rear of it. These three brigades were commanded by Major General King. The whole of Gen. Desha's division, of two brigades, was formed upon the left of Trotter. Col. Johnson's regiment of mounted men were drawn up in close column, its right some fifty yards from the road, its left upon the swamp. The duty of this regiment was to charge at full speed upon the enemy, with the bayonet, as soon as they discharged their fire. This was a new manoeuvre in military tactics suggested by the exigency of the occasion, and was eminently successful.

A few regulars of the twenty-seventh regiment under Col. Paull occupied, in column of sections of four, the small space between the road and the river, for the purpose of seizing the enemy's artillery.

The *crochet* formed by the front line and Gen. Desha's division was an important point. At this spot Gov. Shelby was posted. Gen. Harrison, with his aids Gen. Cass, Com. Perry, and Capt. Butler, took station at the head of the front line of infantry. The

army moved in this order a short distance, when the mounted men received the British fire, and were ordered to charge; the horses in the front of the column recoiled from the fire; another was given by the enemy, and the column getting in motion broke through the enemy with irresistible force. In one minute the contest in front was over. The enemy were unable to re-form their disordered ranks, and our mounted men charging upon them with destructive effect, they soon surrendered. The contest on the left flank was more severe and longer in duration. Col. R. M. Johnson there engaged with the Indians, who poured upon him a galling fire, which he returned with great effect. A part of the Indian force advanced and attacked our front line of infantry, near its junction with Desha's division. They made a temporary impression upon it, but Gov. Shelby came up with a regiment and the enemy being fired upon, both in front and in rear, made a precipitate retreat, in which many of them were killed. Col. Johnson was severely wounded, but as a recompense for his sufferings which were protracted, he has the credit awarded him by his countrymen, of killing in personal combat, during the fight, the celebrated chief and warrior, Tecumseh. The American army amounted to about three thousand men, superior in numbers it is true, to the enemy, but the latter had the advantage in having the choice of ground and time in arrangement of the line of battle. Of the exact force opposed to Harrison there is no satisfactory account. It is certain that just before Proctor fled from Malden he had there at least three thousand Indians, but great numbers, disgusted with his pusillanimity, left him. His force at the Moravian town was at least two thousand. The white prisoners captured were more than six hundred in number; not many British soldiers were killed. The slaughter among the Indians was much greater; they fought with greater bravery and sacrificed themselves for the benefit of their civilized but unnatural allies. Among the trophies of this victory, there were taken a number of field pieces, and several thousand small arms. Most of the latter and two of the former were those taken from Gen. Hull. Excepting one standard, all the emblems of conquest acquired during the campaign by the British, were re-captured. Among the prisoners, were all the superior officers of the British army but Gen. Proctor. He made

his escape with some dragoons and mounted Indians, and although extraordinary efforts were made to capture him, they were unsuccessful. In this battle were many, conspicuous for deeds of personal bravery. Gen. Cass was prominent among those, who by individual exertions deserved and received honorable commendation from the commanding General. As one of the confidential staff of Gen. Harrison he rendered important service in forming the lines for battle. The difficulty in the performance of this duty, which is always highly responsible, was enhanced by the nature of the ground. Woods, marshes and streams surrounded them, and it required all the knowledge and discretion of a military veteran, and which Gen. Cass possessed in an eminent degree, to put our forces in advantageous positions.

Gen. Cass led the pursuit after Proctor, who had fled at the first moment of encounter. He was not able to take the flying General, and had to remain satisfied with the capture of his carriage, baggage, and papers relating to the operations of the enemy, the possession of which, from their disclosures, was considered of no small consequence.

Gen. Harrison's official account of this battle does justice to the brave men engaged in it. He speaks in terms of the highest encomium of Gen. Cass, and acknowledges the valuable aid derived from his presence and exertions. By order of Gen. Harrison a part of Cass' Brigade remained at Sandwich, with directions to follow when their baggage should arrive from the Lake, where it had been left. "Having no command," says Gen. Harrison, "he tendered me his assistance." "I have already stated that Gen. Cass and Com. Perry assisted me in forming the troops for action. The former is an officer of the greatest merit; and the appearance of the brave Commodore cheered and animated every breast."

This decisive and brilliant victory was the cause of rejoicing throughout the Union. It was indeed a triumph. The enemy were driven from the north-western frontier. Previous to the battle of the Thames, Gen. Harrison invested Detroit with a detachment of his army. Soon after the battle an armistice was concluded with the hostile Indians, and Gen. Harrison sailed down the Lake to Buffalo with about thirteen hundred troops. Gen. Cass was left in command at Detroit. No military movement, of note,

occurred during the winter of 1813. The Indians having lost their great leader, Tecumseh, were generally disposed to remain quiet and seek alliance with our people.

In October, 1813, Gen. Cass accepted, from President Madison, the appointment of Governor of the Territory of Michigan. The Government felt it a duty to bestow some distinguished evidence of approbation upon one who had rendered his country such signal service in time of need. Nothing seemed more appropriate than the bestowment upon him of civil authority over the Territory in whose defence he had perilled his life. This appointment was not sought for by Gen. Cass, and he reluctantly decided upon accepting it. Nor did he do so, until he was entreated to comply with the desire of the President, by the inhabitants of that remote territory, who, upon learning the intentions of the Executive, with one voice joined in the request that he would become their Governor. In his campaign among them he had, by his soldierly frankness and bravery, his promptness in the hour of emergency, his courteous and pleasing manners, won their respect and attachment. He yielded to their persuasions, and, early in the winter of the same year, he removed with his family from Ohio to Detroit.

The responsibilities which he now assumed, were of the most trying and arduous character. Located in a distant frontier, surrounded by thousands of warlike savages, whose friendship could not be relied on, the inhabitants were in constant fear of attacks from them. For two years subsequent to his assuming the government of the territory, there were frequent outbreaks of hostilities by the savages, arising from their inordinate and unconquerable propensity to rob, plunder and murder the defenceless. To prevent serious consequences resulting from these outbreaks, required continual watchfulness and management on the part of the Governor. He was often compelled to put himself at the head of parties of armed citizens and soldiers, to resist these predatory incursions of the Indians. On these occasions he was frequently exposed to imminent personal danger; but the same courage and ambition to lead, which characterized him when commanding our forces against regular and disciplined troops, attended him in the Indian hunt. These Indians could not voluntarily desist from committing depredations upon the property of the whites. At the

instance of the Governor, the United States furnished a small supply of arms and ammunition for the use of the citizens to defend themselves against the attacks of the Indians. The woods near and around the city of Detroit afforded them convenience for retreat and shelter. Frequently the inhabitants would assemble *en masse*, armed with such weapons as they possessed; and led by the Governor, would march on expeditions against their tormentors. The Indians would almost always succeed in avoiding a combat with their pursuers. Once, just after the commission of a most cruel and daring outrage, a party was formed for the purpose of driving away into the interior, the Indians who infested the vicinity of Detroit. With the Governor commanding, they marched to the Indian camp, but on arriving there, they found it deserted. Searching the forest, they caught sight of the Indians retreating. The pursuing party being on horses, were impeded by the trees and underbrush, and the Indians escaped to the river Rouge, where they plundered and maltreated the settlers. From there they were driven by the Governor and his party, and fled by a circuitous route and encamped about twenty miles north of Detroit, and from there they were at last forced to retreat to Saginaw.

The determined spirit of the settlers to punish them for these outrages, had the effect of rendering them less troublesome, yet for many years after the war, they continued to annoy the inhabitants. They were sometimes tried for their offences in the territorial courts. At the September term in 1820, of the Supreme court of the territory of Michigan, two Indians were arraigned and tried. Ke-wa-bish-kim, for the murder of a trader at Green Bay, named Ulric, and Ke-taw-kah, for killing Dr. Madison, of the army. The former was first put on trial. Two interpreters were sworn, one to interpret English into French; another from French into Chippewa; but the Indians not understanding that language, a boy was sworn to interpret into the Menominee tongue. Ke-wa-bish-kim was asked if he knew why he was brought there. He said he did not. The Judge said, *he* wished to know why the Indian was there; he had not read the indictment nor did he wish or intend to, he would rather not look at it. Two lawyers present, then examined the indictment and informed the Judge, that the Indian was there for the murder of a Frenchman at Green Bay. The

Indian was then told, by the boy, why he was there. He said, he knew *that*. The interpreter was then told to ask the Indian if he was ready for trial. The boy could not put this question, because there was no such word as *trial* in the Menominee language. The Judge told him, to ask the Indian 'if he is willing to pass before twelve men.' He replied that he was. On being asked if he had any witnesses, he said he wanted the Indian who gave him the knife. Counsel were assigned to defend him. He said he wanted four nights to prepare, and that they might take pity on him and give him his liberty. The Judge granted the time, and told him the court would be his friends, and do all they could to clear him. He was then remanded to prison.

On the following day Ke-taw-kah, was brought into Court.—His fetters were taken off by order of one of the Judges, who said, it was wrong for any one to appear in court in that manner. Proceedings similar to those in the case of Ke-wa-bish-kim took place. One of the Judges directed that the counsel for the government should stand up and be pointed out to the Indian. To this they objected, as they did not desire to be made liable to the prisoner's resentment, in case of his acquittal. After several day's discussion upon points of practice, law, &c., the Indians were tried and convicted, and sentence of death passed upon them. Thursday, Dec. 27th, 1821, was the day appointed for their execution. While in jail, they prepared themselves after their own customs, to meet their fate. All the tobacco, pipes and other articles they could procure, were laid aside as an offering for the great Spirit. By drawing a piece of leather over the vessel which contained their drink, they made a kind of drum, around which, having painted themselves black, they danced their death dance. With some red paint which was given to them, they drew upon the walls of their cell figures of men, beasts and reptiles, and on their blankets, painted the figure of an Indian, suspended by the neck. They acknowledged the justice of their fate and that they deserved the punishment that awaited them. The gallows was erected in a spot where it was visible to them from the jail, and though they knew it was intended for them, it excited no expression of dread or fear of death. They had made up their minds to meet their doom with true In-

dian fortitude, and on the day before their execution, were as cheerful and contented as at any time of the imprisonment.

On the day of execution they were taken from the jail to the Protestant Church, where an appropriate discourse was delivered to a large assemblage, by Mr. J. P. Hudson, of the Mission. They were then taken to the gallows, which they ascended with firmness and composure. They shook hands with their counsel and a few others, who stood near, and asked pardon of the spectators for the crimes they had committed. They then shook hands with each other, the caps were then drawn over their faces, and the final act of the solemn scene consummated.

Murders, not alone of whites, but of their own people were frequently committed by the Indians. Being almost at all times drunk, it is not to be wondered at, that they so easily and so often imbrued their hands in human blood. In the winter of 1826, in the afternoon of a day in January, a Chippewa was found in the street, in Detroit, nearly dead from a cut in his head with a tomahawk. Kish-kaw-ko—a notorious war chief, dreaded for his many and atrocious murders, was suspected of the crime. He was sought after, and found with his son, big Beaver; the latter had his father's tomahawk, which was stained with blood. When he was arrested he said the blood was from some meat he had been cutting. Both of them went quietly to prison, on being told it was Gov. Cass' wish they should go there. The Coroner's Jury found a verdict against Big Beaver, as the principal in the murder, and Kish-kaw-ko as accessory. The Indians remained in jail until May, when Kish. was found one morning dead in his cell. A jury of inquest returned a verdict of natural death, but from circumstances afterwards ascertained it was rendered probable that he poisoned himself. The night before, one of his wives brought him a small cup and went away. Soon after a number of Indians called to see him, and held a long conference, and when they went away took leave of him with great solemnity and affection. After they left, Kish. asked the jailor to give him liquor, a request which he never before made. At an early hour the next morning, the people who visited him the previous evening, came and asked to see him. When they found him dead, they appeared delighted,

and as if gratified to find their expectations realized. All but a few of his band started immediately for Saginaw. Those who remained, performed the funeral ceremonies. He was buried by moonlight on a farm near the city.

He was one of the most ferocious and savage chiefs of modern times. His influence with his people was great although he was unpopular. He was tall and athletic, and of great decision of character. He was attended by a large retinue when he visited Detroit—was peculiar for carrying his war axe upon his left arm, tightly grasped with his right hand, as if in expectation of striking. His despotism may be learned from the following occurrence at Saginaw:—One of his band killed another. The friends of the victim were clamorous for revenge. The murderer's friends were desirous of saving him from their vengeance, and negotiated for his life. The conditions were agreed upon, and the property offered in fulfilment of the bargain was about to be delivered, when Kish. stepped up and struck the murderer dead with his tomahawk. When asked why he interrupted their proceedings and interfered with their lawful agreements, he merely replied, "the law is altered."

Big Beaver, like his father, was a powerful and muscular savage; and one day when the jailor's son went to see him in his cell, just as he opened the door, Big Beaver seized him, thrust him inside, locked the door and escaped to the woods. He was never re-taken but was not long after, drowned in Saginaw Bay.

The number of inhabitants of the Territory did not exceed four thousand and they were principally the descendants of the early French settlers. They looked up to the Governor for advice and assistance in every emergency, feeling assured that in him they had found a personal friend, in whom their confidence was not misplaced.

Gen. Cass was pre-eminently qualified for the responsible station to which the President had appointed him. His experience of frontier life; his indomitable spirit of overcoming difficulties, which would have paralyzed the efforts of a man of less determination, were precisely the qualities needed in whoever should occupy the important office of Governor of Michigan.

In those days Detroit and the few other settlements in Michigan

were looked upon as mere trading posts. They were to a great extent cut off from intercourse with the settled parts of the United States. The inhabitants were sparsely settled along the margin of the principal rivers and the lakes, and their attachment to old customs and manners, their uniform adherence to the path which their ancestors had trodden, were obstacles in the way of the rapid increase of population, or of bringing to the notice of the eastern world the really fruitful resources contained within the territorial limits.

The territory of Michigan previous to 1805, and after possession was obtained from the British in 1796, was a part of the territorial organization known as " the territory of the United States north-west of the Ohio river ; " this was governed by the ordinance of 1787, and was then in the first grade of territorial government as prescribed by that ordinance, that is, its civil officers, were a Governor, Secretary and three Judges. The Governor and Judges, or a majority of them, were empowered to adopt such laws of the original states, civil and criminal as might be necessary and best suited to the circumstances of the District. This proceeding was subject to revision by Congress. In the year 1798 the north-western territory entered into the second grade of territorial government, in which a general assembly or legislature is added to the range of civil officers. To entitle a district to be represented in this body it was neccessary that there should be in the district five thousand free male inhabitants of full age ; for every five hundred free male inhabitants, one representative was allowed. Michigan was represented that year by one representative in the general assembly at Chillicothe.

In January, 1805, Indiana was erected into a separate government, and the residue of the Northwest Territory was divided into the Illinois and Michigan territories. On the first of July of the same year, the territorial government of Michigan was organized at Detroit, by Gen. Hull, who had been recently appointed Governor. At this time, the quantity of land within the newly organized territory, at the actual disposal of the government, was small ; principally embraced east of a line running from the river Raisin to Lake St. Clair, at a distance of six miles from the shore of Lake Erie and the river Detroit. At this time negotiations were com-

menced in relation to the titles of land. It was found that not more than six tracts in the whole territory were legally held by the claimants. Lands were held, in many instances, by grants from subordinate French and English officers. Improvements were made upon them, and some of them had been held and occupied for years, under this illegal and uncertain tenure. These, fortunately for the settlers, were confirmed to them by legal grant from the United States.

Gen. Hull, in 1807, held a treaty at Brownstown, and obtained from the Indians a further cession of their title to the lands. This was the first considerable extinguishment of Indian title: the southern boundary of the cession was the Maumee bay and river, and it embraced all the lands lying east of a line running north from the mouth of the Au Glaize, a tributary of the Miami, until it should intersect the parallel of the outlet of Lake Huron; thence extending in a northeasterly direction to White Rock, on Lake Huron. This northerly line was afterwards adopted as the principal meridian line for the public surveys of the territory. Subsequent treaties were afterwards made with the Indian tribes, by Gov. Cass, which will hereafter be referred to more in detail.

It may well be imagined, that at this time the office of Governor was no sinecure or one of mere honor. Although the Indians were in a measure overawed by the victory over Proctor at the Thames, had lost their leader and were deserted by their British allies, they were by no means friendly. Hostilities yet existed between our country and Great Britain, and the greatest necessity existed for the most untiring vigilance. The country which had been overrun by the savages, presented a scene of horror and devastation, which it is believed have been seldom equalled in the annals of civilized warfare. The only route then passable between Detroit and the nearest settlements in Ohio, presented one continuous array of proofs of merciless and savage barbarities. The sympathies of the Governor and his family, and of the citizens of Detroit generally, were called into action by the sufferings and captivity of persons who had become prisoners to the Indians during the war. They were treated with most extreme cruelty by their savage captors. Many of them were brought to Detroit by the Indians, with the object of obtaining large ransom for them. All that could be

done by the humane and generous citizens, was freely effected. Money was paid for them; they were taken in, sheltered and clothed, and this, too, when most of their benefactors themselves were reduced to necessity, by the ravages of war, and were held by the surrender of the town in a state of vassalage to British authority. The patriotic exertions of the people were afterwards remunerated by Congress, as in strict justice they deserved.

In the winter of 1813 Gov. Cass was ordered to repair to Albany, to give his testimony on the trial of Gen. Hull, for his conduct of the Northwestern Campaign. In company with several others ordered there on the same business, the Governor started from Detroit on Christmas day. The journey, for some distance, was performed on horseback, each one carrying his own provisions. The end of the first days' ride brought them to Brownstown, twenty miles from Detroit, where they encamped for the night. The road from Brownstown to the River Raisin was for one third of the distance, one continuous swamp. The ride was extremely wearying. In crossing the swamp, it being but slightly frozen on the surface, horse and rider would frequently become mired; and the help of those who had been more successful, was required to extricate them. On the evening of the third day, they reached Fort Meigs and on the next day, such was the condition of the country, that ten miles were all they accomplished. Frequently at night, it happened they could not find a spot of dry ground large enough to accommodate their encampment. Then, each one sought for himself the best place to be found. The Governor would spread his saddle blanket at the root of a tree, where the prospect was most promising, and take up his lodgings for the night. The party at that inclement season, suffered greatly from meagre fare, fatigue and the impossibility of kindling fire, where they encamped. A fatiguing journey of five days, at length brought them to Sandusky Bay, where for the first time since leaving home, they had the comfort of a nights' rest under the roof of an humble log dwelling. At Cleveland they procured a sleigh and driver, and hastened on to Erie. From there they started for Buffalo; on arriving there, they found the town in ruins, it having been burnt a few days previous by the British. Gov. Cass communicated to the Secretary of War, the condition of the town and vicinity. He

described it as exhibiting a scene of distress and destruction, such as he never before witnessed. The Gov. and his companions arrived at Albany about the time of the commencement of the court for the trial of Gen. Hull. A gentleman, who was present at the time Gov. Cass was called to the stand, and who was himself, one of the witnesses, states that when the Governor appeared and was sworn, Martin Van Buren, judge advocate, commenced in rather a flippant manner, to propound questions to him,careless of their import or pertinency. He soon learned that he had no ordinary man before him and a short experience with the Governor as a witness, warned the judge advocate, that a more respectful demeanor, and more carefully formed interrogatories were due to the distinguished man, whom he was examining.

CHAPTER V.

Colonel Cass as Governor of Michigan Territory—The arduous duties of his office—Examination of Upper Michigan—Is requested by Government to ascertain the disposition of the Indians in Ohio in regard to disposing of their lands—Is appointed Commissioner—Concludes an important Treaty—Urges the construction of a military road through Ohio—Number of Treaties made and concluded by Gov. Cass with Indian tribes—Tour by way of the Lakes to the headwaters of the Mississippi—Leaves Detroit in an open boat—Navigates the Great Lakes in a canoe—Perils of the route—Personal exposure of Gov. Cass in resenting an insult to his country's flag—His determination and the successful results of his expedition—Is appointed to negotiate treaties of peace between hostile Tribes—Accomplishes his purpose—A novel temperance lecture—Treaty at Fond du Lac—Gov. Cass's address to the Pottawatomies and Miamis.

As the Executive officer of Michigan, Gen. Cass found a multiplicity of objects, calling for the exercise of his powers as a statesman. It is rarely that military skill and eminence in the civil departments of government, are found combined in the same individual. When they do so exist, that people may be regarded as truly fortunate who are placed under the government of one who is alike able to lead them to victory against their enemies, and devise good and wholesome laws for the protection of their civil rights, and the establishment of their social happiness. Such appears to have been both the ambition and the result of Gen. Cass' administration. Consequent upon the ravages of war, disorder reigned; it was as if order and civil government were to be instituted *de novo;* chaos changed to system and harmony. The civil divisions of the Territory were to be defined, courts established, officers and magistrates appointed, and measures commenced to develope the resources of the country, and attract towards it the attention of the inhabitants of the States. Besides all these, there were formidable bands of Indians within the Territory who were to be conciliated and induced or forced to enter into treaties of amity and peace. The Indian title was to be extinguished to vast tracts of land, not only within the Territorial limits, but elsewhere, northwest of the Ohio. A policy was to be formed and

adopted towards these savage owners of the right of soil, which should become a permanent institution of the government. There were prejudices too, to combat, in regard to the natural resources of Michigan, which had their origin in ignorance, to which, perhaps, may be added, the inducement of interest.

Persons acting in an official capacity, had circulated through the newspapers of the day, that the interior of Michigan was one vast morass, entirely useless to the white man for purposes of agriculture, if not altogether inaccessible to his enterprise and pioneering spirit.

The lands of Michigan, now well known and celebrated for their beautiful formation, fruitful qualities and facilities of tillage, were then represented as unfit to be given away. To overcome these unfounded and injurious prejudices, was one of the undertakings which Gen. Cass conceived to be his duty. For this object he projected and encouraged expeditions to explore and examine the country, himself often accompanying the expedition.

In 1819, an exploring expedition upon an extensive scale, having in view the examination of the upper country of the peninsula, even to the sources of the Mississippi, was projected; and in the following year was undertaken and accomplished by him. Incalculable benefits were derived from these enterprizes. The actual condition, appearance, and nature of the country, were satisfactorily ascertained. His reports and notes of the route, were published, and brought into notice the immense prairies and openings of the West. Hundreds were induced to emigrate thither from the less fertile lands, and more laborious tillage of the East. This expedition and its influences, will hereafter be considered.

In 1817, it was deemed advisable by the Government to attempt the extinguishment of the Indian title to all the land claimed by them within the limits of the state of Ohio. Gov. Cass was selected by the President to ascertain by personal interview with the chiefs and head men of the several tribes who claimed the lands, how far it would be practicable to carry into effect the wishes of the Government. The proceedings were left discretionary with the Governor. If he should find that it would be impossible or impolitic to endeavor to obtain all the country claimed, his nego-

tiation was to be confined to an attempt to procure the relinquishment of a portion.

Accordingly, in the month of April in that year, the Governor proceeded to Lower Sandusky, in Ohio, to ascertain the views of the Indians on the subject of his mission. He learned there, that there was but little doubt but that the Indians would consent to cede a considerable portion of their country. Upon his report to the acting Secretary of War, a commission was issued, in the following May, authorizing Gov. Cass and Gen. McArthur to negotiate a treaty. No definite instructions were given in regard to its provisions, further than that the commissioners should keep in view the desire of the Government to effect the peaceable removal of the Indians from the shores of Lake Erie to lands west of the Mississippi river. All besides was left to the judgment and discretion of the commissioners. In pursuance of this authority, Gov. Cass, with his associate, caused the sachems, chiefs and warriors of the Wyandott, Seneca, Delaware, Shawanee, Pottawatomie, Ottawa and Chippewa tribes of Indians, to assemble at Fort Meigs, in Ohio. They met them there, and on the 29th of September, 1817, concluded and signed a treaty, by which those tribes ceded to the United States nearly all the land which they claimed within the limits of Ohio, a part in the state of Indiana, and a portion in the Michigan territory. This was one of the most important Indian treaties ever negotiated in the United States. It attached the isolated population of Michigan to the five hundred thousand inhabitants of Ohio; it made the Territory of Michigan, in a fuller sense, a constituent part of the American Union, and removed, for ever, apprehensions that then existed, of a powerful and inimical confederacy among the Indian tribes. There were difficulties attending its successful accomplishment, which required all the experience and sagacity of the commissioners to overcome. The Indians were in a feverish state of excitement; when the negotiation was completed, they were reluctant to part with their lands. They did not contemplate with any degree of pleasure, the prospect of a new home beyond the distant Mississippi. They preferred to retain their old hunting grounds, that they might linger unmolested amid their accustomed haunts; around the places of their birth and the graves of their sires.

Moreover, they had become informed of the value to the United States, of the desired acquisition. By intercourse with our own people, they had learned the pecuniary value of the soil, as well as its importance as a connecting link, binding together our north-western frontier. Its acquisition, too, was rendered more difficult from the fact, that a greater portion of it was owned by the Wyandotts, a high spirited people. It was their last possession, and when they parted with it, they would cease to be hunters; they would have taken a step which would, as it were, blot out of existence their character and customs as hunters and warriors. They were solicited to give up, absolutely, that which for ages they had enjoyed, and which formed the zest and charm of their existence. Yet against all these obstacles the wisdom and tact of our commissioners succeeded, and the Indian title was extinguished to nearly four millions of acres, of a country beautiful and valuable, fertile, well watered, and handsomely situated.

The value of the service rendered to the country by the negotiators of this treaty, was appreciated by the President and the Secretary of War. In the note of the War Department acknowledging the receipt of the treaty at Washington, the Secretary says: "The extent of the cession far exceeds my most sanguine expectations, and there can be no real or well founded objections to the amount of compensation given for it, except that it is not an adequate one. This treaty may be considered in its fiscal, political, and moral effects, as the most important of any that we have hitherto made with the Indians."

It was at this time that Governor Cass urged upon the consideration of the Government, the political and pecuniary necessity for constructing a road from Sandusky to Detroit. Its advantages to the government in a military and fiscal view, were pointed out in a communication to the War Department, so clearly and argumentatively that its necessity could not be overlooked. Had there been during the war, a good road running from the interior of Ohio to Detroit, immense sums of money would have been saved to the nation; the capacities for supplying the military posts on the Lakes, with troops and provisions, would have prevented much of the disaster which befel the northwestern army at the outset of the

campaign. The government were induced by the application of Gov. Cass and his colleague, to commence building a road over the route indicated, taking in its course the well known morass—the Black Swamp.

Subsequent to the negotiation of this treaty, and within a period of eighteen years, Governor Cass made and concluded nineteen treaties with the several tribes of Indians within our borders, all of which, but one, were in the Northwest Territory. The number of Indians within the extent of his jurisdiction, when he assumed the superintendency of Indian affairs, was forty-two thousand, among whom were nine thousand warriors. The responsibility resting upon him was indeed onerous; but the duty to his country, and to all interested, was faithfully and efficiently discharged. His care and control of these fierce sons of the forest commenced at a time too, when to the natural difficulties of performance, was added imminent personal danger to the officer. The war of 1812, in which these ferocious allies of the most christian British monarch had borne a horribly conspicuous part, was still pending; the influence of the British army was exercised against his efforts to form treaties of peace and amity with them; the ashes of the pioneer's cabin they had burned, were still warm; and the scalps of their massacred victims, still hung green in their wigwams. Yet, in spite of these fearful odds, did this pioneer commissioner manfully do the bidding of his country, in winter or summer, day or night; traveling through the wilderness on foot or on horse-back, or making the tour of the great Lakes in a birchen canoe. In the discharge of these duties, hundreds of thousands of dollars were disbursed by him, most of which was transported at his own risk and under his own watchful eye, without compensation commensurate with the hazard of the undertaking; sometimes procuring the means on his private credit, of fulfilling treaty stipulations, when the government had neglected or delayed to provide them.

The prosperous farmer, who surveys with delight his rich fields of ripening grain, upon our western prairies and openings, waving its golden head beneath a summer's sun to the light breeze that softly wafts across it, can scarcely realize the toils, the privations, the dangers that attended the man who first obtained for him, the right to own and cultivate his cherished homestead. Seldom per

haps, does he stop to think that he and his neighbors for miles around, are all indebted to the exertions, the self denial, the conscientious sense of duty of one man, for those teeming and fruitful fields, which bring gladness to his heart and prosperity to his household. Yet the public records of the government bear testimony that nearly every foot of soil in the northwest was acquired by Lewis Cass. No man was ever so closely identified with that portion of our country. No man in its behalf, has undergone so much personal privation; endured so much sacrifice of comfort and enjoyment, or rendered such great and signal benefits as General Cass.

The annexed statement will show the number of treaties negotiated by Gov. Cass; when and with what tribes: also the estimated number of Indians under his superintendence in 1813 when he assumed Executive duties at Detroit.

Indian Treaties concluded by Gen. Cass.

Names of Tribes.	Dates of Treaties
Wyandots, Delawares, Shawnees, Senecas and Miamies	July 22, 1814
Wyandots, Delawares, Shawnees, Pottawatamies, Ottawas and Chippewas	Sept. 29, 1817
Delawares	Oct. 3, 1818
Miamies	Oct. 6, 1818
Pottawatamies	Oct. 2, 1818
Chippewas of Saginaw	Sept. 24, 1819
Chippewas of Saut Ste. Marie, Lake Superior	June. 16, 1820
Ottawas of L'Arbre, Lake Michigan	July 6, 1820
Chippewas, Ottawas, and Pottawatamies of Illinois	Aug. 29, 1821
Sioux, Chippewas, Sacs and Foxes Iowas Winnebagoes, Menomonies and Pottawatamies	Aug. 19, 1825
Chippewas of Lake Superior, and the Area northwest	Aug. 5, 1826
Miamies of the Wabash	Oct. 23, 1826
Pottawatamies	Oct. 16, 1826
Chippewas, Menomonies and Winnebagoes	Aug. 11, 1827
Pottawatamies	Sept. 19, 1827
Sacs and Foxes, Winnebagoes, Pottawatamies, Ottawas and Chippewas	Aug. 25, 1828
Potawatamies	Sept. 20, 1828
Chippewa, Ottawa, and Pottawatamies of the Illinois, Milwaukie and Monitowac	July 29, 1829
Creeks	April 4, 1832

Estimate of the number of Indians within the superintendency of Gen. Cass, at the period when this officer assumed the executive duties at Detroit, in the autumn of 1813.

	Warriors.	Souls.
Wyandots of Ohio and Michigan	600	2,500
Shawnees of Ohio and Indiana	120	600
Senecas of Sandusky	100	500
Delawares of Indiana	150	750
Ottawas of Maumee	80	400
Ottawas of the Peninsula of Michigan	400	2,000
Saginaws	240	1,200
Pottawatomies of St. Joseph & the Huron	100	500

Pottawatomies of Chicago and Illinois at large	400	2,000
Chippewas of Lakes St. Clair and Huron, and the precincts of Michilimacinac	1,000	5,000
Chippewas of Lake Superior, and the region north of the Lake of the Woods and head of the Mississippi	2,000	10,000
Menomonies of Green Bay and Fox river	600	3,000
Winnebagoes of Western Michigan, now Wisconsin	1,000	5,500
Miamies, Weas, and Piankeshaws of the Wabash	900	4,000
Sioux and other bands from the west of Mississippi, and visiting or roving Indians at large	600	3,000
	8,890	41,400

The various tribes of Indians within the superintendency of Gov. Cass, between the Lakes and the Mississippi, were but imperfectly known, and so was the country they inhabited. To obtain a more thorough knowledge of both; to explain to the Indians the views of the government towards them; to acquire information which would facilitate and improve the performance of the duties of his department, Gov. Cass projected the plan of making a tour by the way of the lakes, to the head waters of the Mississippi. He communicated his plan to the Secretary of War, with the objects and purposes of the expedition, which were:

First. A personal examination of the different Indian tribes who occupied the territory; of their moral and social condition; of their feelings towards the United States; of their numerical strength; and of the various objects connected with them, of which humanity and sound policy required that the Government should possess an intimate knowledge.

Second. To procure the extinction of Indian title to the land in the vicinity of the Straits of St. Mary, Prarie du Chien, Green Bay, and open the communication between the two latter places.

Third. The examination of the body of copper in the vicinity of Lake Superior.

Fourth. To ascertain the views of the Indians in the vicinity of Chicago, respecting the removal of the six nations to that country.

Fifth. To explain to the Indians the views of the Government, respecting their intercourse with the British authorities at Malden, and distinctly to announce to them that their visits must be discontinued.

Sixth. To ascertain the state of the British Fur Trade within that part of our jurisdiction.

This proposition, and its objects, received the sanction of Government, except that relating to the further extinguishment of In-

dian title. This was then deemed inexpedient, further than to procure a cession at the Saut de St. Marie, not exceeding ten miles square.

In prosecuting this enterprise, Gov. Cass adopted the most simple and economical means. All that he required was a birch canoe, with a complement of experienced boatmen. No compensation was asked for his own time and services; he only requested permission to apply an appropriation already made, of one thousand dollars, to defray the actual expenses of the trip. To aid in accomplishing all of the proposed objects of the expedition, the Gov ernment appointed a topographical engineer, and a gentleman skilled in mineralogy and geology to accompany the expedition.

On Wednesday, May 24th, 1820, arrangements for the expedition being complete, Governor Cass started from Detroit, accompanied by Capt. Douglass, of the Engineer Corps; Lieut. McCay, of the Corps of Artillery; Dr. Wolcott, of the Indian department; Henry L. Schoolcraft, Esq., a scientific geologist, and three other persons, citizens of Detroit. Their conveyances consisted of three canoes, propelled by *voyageurs* and Indians: each canoe was adorned with the flag of the United States flying from the stern. The departure of the party caused no little excitement and animation among the inhabitants of the territory, especially among the citizens of Detroit. The wharf and the shore of the river were lined with spectators. The novelty and hazard of the expedition were appreciated by all. The canoes were paddled into the stream amid the cheers and huzzas of the multitude, and were propelled against a strong wind and current with astonishing rapidity; the *voyageurs* regulating the strokes of their paddles by one of their singular and exhilarating row songs, and the Indians encouraging each other by shouts of exultation. On leaving the shore, considerable exertion was made, both by the *voyageurs* and Indians, to obtain the lead, and a handsome boat race was witnessed, in which the Indians displayed their superior skill, and soon left the other canoes far behind. This expedition, commenced with the approbation of the Government, and under encouraging support from residents near the country to be explored, was prosecuted with vigor and determination. The party, notwithstanding they were impeded by head winds, arrived at Mackinac on the 10th of June,

having traversed adout four hundred miles. There, they procured canoes of a larger size than those in which they left Detroit. From Mackinac they proceeded to the Saut of St. Marie, where Governor Cass negotiated with the Chippewas for a cession of sixteen square miles of land, as instructed by the Secretary of War, for the purpose of establishing a military post. This was an important acquisition; one absolutely necessary for the preservation of good feeling and amity on the part of the Indians inhabiting the upper country.

Persons hostilely disposed towards our government and jealous of the influence which it was gaining over the numerous tribes of Indians, were in the habit of resorting to this point from the British outposts and trading stations, for the purpose of exciting by false tales, and by bestowing presents, the minds of the Indians against our officers. By evil counsel and the most corrupt means, they partially succeeded in throwing difficulties in the way of treaty negotiations. The cession above spoken of, preparatory to the establishment of a military force there, to overawe the inimical and hostilely disposed savages and prevent the visits of British emissaries, was in the highest degree advantageous to the country. The Saut Ste Marie, was the key to the country around and north of Lake Superior. It was the thoroughfare through which the Indians passed to receive their presents and medals at the British post on Drummonds Island, near the mouth of the river St. Mary. Its importance to the United States, could not be over estimated. It was on the occasion of effecting this treaty, that Gov. Cass displayed at the peril of his life, that personal courage and indifference to danger, by which singly and unarmed, he vindicated the insulted dignity of his country, and overawed by moral force, a band of armed and angry chiefs. A gentleman who accompanied the expedition, gives the following narrative of the occurrence. A chief who was called the "Count," appeared in the Council at Ste Marie, in the full dress of a British officer of rank, and during the conference, showed the greatest aversion to the Americans. When the chiefs were about to retire, this fellow standing by the presents which laid in the centre of the marquee, where the Council was held, with great contempt kicked them aside, and rushed out of the marquee. In a few minutes the British flag, and not an

American one, was seen flying within thirty rods, and in front of the Governor's camp, and in the midst of the Indian lodges. Immediately the Governor, unattended by any of his party, walked to the lodge where the flag was raised, and by which the chiefs who had been in the council, were standing, and seizing the flag, dashed it to the ground and trampled it under his feet. The Indians appeared to be panic struck by this daring act. The Governor called to the interpreter and remonstrated with the chiefs, upon the impropriety of their conduct, and upon the hostile feelings which they displayed by this act, towards the United States. He also stated to them the inevitable result to which such conduct must lead, and that a repetition of it, while he was there would not pass unpunished. In less than fifteen minutes the squaws belonging to the lodges, with all their children, had abandoned the camp, and were safely landed on the British shore, and appearances indicated an immediate attack by the Indians upon the party. On the part of the exploring party, preparations were instantly made for defence against any attack which might be made by the Indians. But the firmness of the Governor effected what had been nearly despaired of. In a short time the old chiefs sent to the Governor and disavowed the act. They attributed it to their young men, and expressed their sincere regret at its occurrence. They also requested a renewal of the council and professed their readiness to make the cession of land asked for by the United States. The council was renewed and in a short time the treaty was consummated

These same Indians acting under the influence of British emissaries had before this event, insulted American officers who visited the Saut. They were aware of the object of our government in desiring to obtain this cession of land, which doubtless made them more reluctant to part with it, than otherwise they would have been. Had not Governor Cass met the emergency precisely as he did, intimidating the Indians by his heroism, the object would not have been accomplished at that time.

From the Saut Ste Marie, the party coasted along the southern shore of Lake Superior to the Fond du Lac; ascended the St. Louis to one of its sources; and descended a tributary stream of Sandy Lake to the Mississippi river; thence ascending to the Upper Red Cedar Lake, the principal tributary of the Mississippi.

From this they descended the Mississippi fourteen hundred miles to Prarie du Chien, passing on the route, the post of St. Peter's. They then navigated the Wisconsin river to the Portage, entered the Fox river and descended it to Green Bay. At this point a portion of the party separated from Gov. Cass, intending, for topographical exploration, to coast along the eastern shore of Lake Michigan to Mackinac. The Governor returned to Detroit by way of Chicago. He arrived at the latter place on the eleventh of September, having been traveling since the twentieth of the preceding May, during which time he traversed over five thousand miles of frontier in his canoes; held various treaties with the Indians; obtained valuable accessions of territory; explored a hitherto unknown region of couutry; procured additional knowledge of the feelings, views, disposition, character, customs and numbers of the Indians, and a more accurate topography of the vast country watered by the Great Lakes. The proposed objects of his expedition were fully and satisfactorily accomplished.

In the year 1825, Governor Cass and Governor Clarke of Missouri were appointed commissioners on the part of the United States, to meet the Indians of the extreme northwest, at Prarie du Chien to negotiate a treaty of peace between the hostile tribes inhabiting that region. Wars for many years had been carried on between the Chippewas and Sioux; the Sacs and Foxes and the Sioux; and the Iowas and Sioux. This existence of hostilities within the jurisdiction of the United States, if permitted to continue would in a short time have been productive of incalculable evil. Its influence upon the other tribes on the Missouri and Mississippi rivers, and on the Lakes, would have been to involve them all in general warfare; retarding the advancement of the country and creating new obstacles to their removal beyond the Mississippi. Accordingly, to promote peace among the several tribes, and to establish boundaries among them and remove all causes of future difficulty, they were invited to assemble at Prarie du Chien to accomplish these objects. The invitation was generally responded to, and large deputations of the Sioux, Chippewas, Sacs, Foxes, Winnebagoes, Iowas, and Menominees, attended in the month of August 1825, and were met by the Commissioners. Many of the Indians came from points a thousand miles distant from the treaty

ground. The objects of this assemblage occupied the attention of the council for several days. The difficulties attending a negotiation of this kind were formidable The entire nature of the transaction being different from an ordinary treaty, where lands were to be given up on one side and a consideration paid therefor by the other. Here there were no tangible inducements; no glittering gold and showy presents, to persuade the warriors to listen to the advice of his white brother. The consideration of their concessions was entirely a moral one; one little understood and doubtless quite as little appreciated by them, as oftentimes it is, by the more civilized and educated. Besides, it was asking the turbulent and war-seeking Chippewa; the brave and daring Sioux, to lay down the tomahawk and extend the hand of peace and friendship to one another, while each held the unavenged trophies of valor, obtained in deadly combat. To effect, under such circumstances, the purpose of the conference, required the utmost caution and prudence. It should be borne in mind too, that the Indian evinces great acuteness in defining his rights, and no less pertinacity in maintaining them. In a conflict of claims between them, it is no easy task to reconcile their differences, and induce concession and relinquishment. In spite however of all obstacles, and they were by no means few in number, or light in influence, the Commissioners accomplished the purpose of their mission.

A treaty was concluded and signed on the 19th of August, 1825, whereby it was agreed that there should be a firm and perpetual peace between the contending tribes; boundaries to their territory were fixed. One principal cause of hostilities, was the invasion by one tribe, of the hunting grounds claimed by another; this cause was removed by an agreement, that no tribe would hunt within the acknowledged limits of another without their assent.

To give solemnity to this treaty, the commissioners omitted none of the ceremonies usual on such occasions, and to which the Indians attached so great importance. This token of respect for their reverence for their time honored usages and customs, operated in holding them more faithfully to the fulfilment of their agreements. At the conclusion of the treaty, the commissioners entertained the whole assemblage of Indians with a feast, having a peculiarity attending it which was truly novel and unusual to the

guests. The occasion was made use of to explain to them the evils they suffered from their indulgence in ardent spirits; and the terrible consequences which would inevitably ensue to them, if they continued the baleful practice. To convince them that the government was not actuated by a desire to save the cost of the liquor they might consume, and which it had been accustomed to distribute among them at treaties, but which in the present instance was omitted, the commissioners caused an ample supply of whisky to be brought in among them. When their attention was awakened to the subject, Gov. Cass ordered the vessels containing the liquor to be overturned, and the contents wasted upon the ground. The Indians were greatly disappointed and much astonished by this novel temperance lecture.

In 1826, Gov. Cass negotiated a further treaty with the Chippewas at Fond du Lac, on Lake Superior; a treaty with the Pottawatomies on the Wabash, in Indiana; and a treaty with the Miamis, also on the Wabash. These several treaties were all of importance to the country; accomplishing peaceably and legally the extinguishment of Indian title, and preparing the minds of the Indians for removal beyond the limits of civilized settlements.

At the treaty of Fond du Lac, more than two thousand Indians assembled. This point was an old Indian trading establishment, on the St. Louis river, and distant from the Saut Ste. Marie five hundred miles. The voyage was accomplished in bark canoes, and occupied eighteen days, during which much tempestuous weather and high seas were experienced. Having arrived there a treaty was negotiated and signed. The chiefs who were there, appeared at the council with the British flag and with British medals suspended from their necks. After the conclusion of the treaty, Gov. Cass directed one of his attendants to take the medals and flag from the chiefs. This being done, the Governor placed the medals and flag under his feet, and told the chiefs that when he returned he would give them the kind of medals and flag they were to use. This was a bold act on the part of the Governor, but it impressed the Indians with his courage, and made them listen favorably to his advice.

At the treaty with the Pottawatomies and Miamies on the Wabash, in Indiana, in 1826, Gov. Cass delivered the following speech

to the Indians, and which is here given as a specimen of the style and manner of his intercourse with the Indian tribes.

My Children—

Pottawatomies and Miamis: We thank the Great Spirit that he has opened the paths to conduct us all here in safety, and that he has given us a clear sky and a cloudless sun, to meet together in this council house. Your great father, the President of the United States, has sent me, together with the two gentlemen who sit with me, to meet you here upon business highly important to you, and we request that you would open your ears and listen attentively to what we have to say to you.

When the Great Spirit first placed you upon this island, he gave you plenty of game for food and clothing, and bows and arrows, with which to kill it. After some time it became difficult to kill the game, and the Great Spirit sent the white men here, who supplied you with guns, powder, and balls, and with blankets and clothes. We were then a very small people; but we have since greatly increased, and we are now spread over the whole face of the country. You have decreased, and your numbers are now much reduced. You have but little game, and it is difficult for you to support your women and children by hunting. Your Great Father, whose eyes survey the whole country, sees that you have a large tract of land here, which is of no service to you. You do not cultivate it, and there is but little gained upon it. The buffalo has long since left it, and the deer are going. There are no beavers, and there will soon be no other animals worth hunting upon it.

There are a great many of the white children of your father who would be glad to live upon this land. They would build houses, and raise corn, and cattle, and hogs. You know that when a family grows up and becomes large, they must leave their father's house and look out for a place for themselves—so it is with your white brethren. Their family is increased, and they must find some new place to move to. Your Great Father is willing to give for this land much more than it is worth to you. He is willing to give more than all the game upon it would sell for. He will make you a considerable present now, and he will allow an annuity hereafter. You know well that all he promises, he will perform.

The stipulations made to you heretofore are punctually fulfilled. Large annuities in specie are paid to you, and they are sufficient to make you comfortable; much more so than you were before the Treaty of St. Mary's. Your Great Father is not only anxious to purchase the country of you; but he is desirous that you should remove far from his white children. You must all see that you cannot live in the neighborhood of the white people. You have bad men, so have we. Your people will steal our horses, kill our cattle and hogs, and commit other injuries upon our property. Some of our people who have committed crimes, escape into your country, and it becomes difficult to take them. Besides, when you divide our settlements, we cannot have roads, and taverns, and ferries. The game, too, dies before our improvements, and when that goes you must follow it. But above all, your young men are ruining themselves with whisky.

Since within the recollection of many of you, your numbers have diminished one-half, and unless you take some decisive step to check this evil, there will soon not be a red man remaining upon the islands. We have tried all we could to prevent you from having this poison, but we cannot. Your bad men will buy, and our bad men will sell. Old and young among you will drink. You sacrifice your property, you abandon your women and children, and destroy one another. There is but one safety for you, and that is to fly from this mad water. Your Father owns

a large country west of the Mississippi ; he is anxious that all of his red children would remove there, and sit down in peace together. There they can hunt and provide for their women and children, and once more become a happy people. We are authorized to offer you a residence there equal to your lands here in extent, and pay you an annuity which will make you comfortable, and provide means for your removal.

You will then have a country abounding with game, and you will also have the value of the country you leave. You will be beyond the reach of whisky, for it cannot reach you there. Your Great Father will not suffer any of his white children to reside there, for it is reserved for his red people. It will be yours as long as the sun shines and the rain falls.

You must go before long—you cannot remain here—you must remove or perish. Now is the time for you to make a good bargain for yourselves, which will make you rich and comfortable.

Come forward then, like wise men, and accept the terms we offer. We understand there is a difference of opinion between Pottawatomies and Miamis, respecting their claims to this land. This difference we should be glad to have you settle between yourselves. If you can do this it will be well, if not, we shall examine into the circumstances and decide between you.

The preceeding was written and read by sentences to the interpreter, (Mr. Barron, chief interpreter,) who delivered it to the Indians; to this followed a few extempore remarks by Governor Cass, viz :

"Mr. McCoy, whom you know is a good man, will go with you over the Missi-sippi ; and continue to live among you. You know him to be a good man, and a sincere friend to you, and would not advise you to do any thing that would be an injury to you. You stand alone—there is none to support you—the Shawnees and Delawares are all gone. You have been invited by your Great Father, the President, and are now sitting around our council fire, in our council house, and under our flag. Your young men are not always prudent, they will drink and quarrel—we hope the old and wise men will keep the young men from doing any injury. If blood should be shed at our council fire, we never should forgive it,—we have the will and power to punish it.

Your Great Father has a quick ear, a sharp eye, and a long arm. If a Pottawatomie strikes a Miami, or a Miami strikes a Pottawatomie, he strikes us—no matter where he goes, we promise here before our brethren, red and white, we will never kindle another council fire, nor smoke another pipe before we punish him. Your young men must listen to what the chiefs tell them—They should do as in former days, when chiefs had power and the young men were wise—let them clear out their eyes, and let the words I have spoken go to their hearts.

You now have the propositions we were authorized to make you. We wish you to remember it, and think upon it, and return us an answer as soon as possible. When you are ready let us know it, and we will hoist the flag—which shall be the signal that we are ready to receive your answer.

CHAPTER VI.

Journey to Lake Winnebago—Hostile feeling among the Winnebagoes—Attack on the Miners—War Messages—Gov. Cass organizing the Miners for defence—Alarm at Fever River—He goes to St. Louis—Anxiety at Green Bay for his safety—Rumors there of his death—Arrival at Green Bay—Treaty of Butte de Morts—Occurrence at the treaty—Personal danger at an Indian village—Providential escape—Removal of Troops, cause of the Indian difficulties—Successive appointments of Gov. Cass—His civil administration—His freedom from religious intolerance—Tribute to the Catholic Missionaries—Satisfaction of the people with his administration—Secret of his success—His views on appointment to office—First legislative Council of the Territory—Gov. Cass calls attention to the existence of Copper on the upper Peninsula—Removal of the New York Indians—Visits of the Indians to the British post at Malden—He attempts to prevent them.

In the month of June, 1827, Gov. Cass, in company with Col. McKenney, left Detroit for Lake Winnebago. They went to hold a council with the Indians, to establish the boundary line between the Chippewas, the Menominees, and Winnebagoes, as agreed upon at the treaty of Prairie du Chien ; also to settle the boundaries of the lands allotted to the New York Indians. When they arrived at Green Bay, rumors were current that the haughty and untameable Winnebagoes had evinced hostile feelings towards the miners in their country, and were endeavoring to enlist the Pottawtomies to join them in driving the whites from the country. Governor Cass proceeded at once, by express, to Prairie du Chien, for the purpose of settling the difficulties. The Indians conceived that their rights were invaded by the aggressions of the miners, of whom there were about five hundred. When he arrived there, he found that rumor had not exaggerated the state of affairs. The Winnebagoes were highly excited. A few days previous they murdered and scalped three persons. The inhabitants were in great alarm. They had left their farms, and for protection and defence had congregated at one house, where they were expecting to be attacked. A party of three hundred warriors had driven the miners from their ground on Fever River, and destroyed their tools and furniture. Two boats were attacked on their way from St.

Peter's, in which three of the Indians were killed. A feeling of enmity prevailed generally among the Indians, towards the settlers, and concerted measures had been arranged for their destruction.

Gov. Cass found that the most energetic action was required to quell the disturbances, and bring the refractory Indians to punishment. War messages had been sent in every direction. The settlement at Prairie du Chien was broken up, and the inhabitants had taken shelter in the Fort, where they were but poorly provided with means of defence. They numbered only sixty men, almost destitute of arms and ammunition. He organized this body of men, and putting things in the best possible state of defence, descended the river to go to St. Louis. On his arrival at the mines on the Fever River, he found the miners there in great alarm. Although they numbered three thousand, yet they were without means of defence. He procured at Rock Island, a quantity of arms and ammunition, and sent them to the miners. On arriving at St. Louis, he represented the condition of matters, to Gen. Atkinson, who immediately ordered a detachment of six hundred U. S. troops, to march to the seat of trouble. Great anxiety was felt at Green Bay, during the Governor's absence, for his fate; reports had reached there, that he had been shot by the Indians. These anxieties were removed by his arrival at Green Bay, to prosecute the object of his mission. Here he met some three thousand Indians who had assembled at the Treaty ground, These he addressed, advising them to preserve peace, at the same time nforming them, that if they were tired of peace and desired a little war play, the United States would accommodate them.

Gov. Cass, having in some degree allayed the excitement among hem, and by his prompt and energetic action, awed them into submission, proceeded to hold the treaty with them. The treaty was concluded at the Butte de Morts (Hillock of the dead), on the fifteenth of September. By it, was obtained the final settlement of the division line, between the Chippewas and the Menominees; a cession of the Green Bay reservation, and the determination of its limits, and reference to the Government of the United States, of the matters in dispute between the Menominees and New York Indians. The treaty being concluded, the Indians were preparing to leave the ground, when suddenly the attention of the assemblage

was arrested by a wild and fearful scream. A squaw, having attempted to prevent her husband from parting with the supplies that had been given them, which he was about to do, for whiskey, had been stabbed by him. He was taken into custody by order of the Governor, and arrangements were made at once to punish him. Gov. Cass resolved to make an example of him by inflicting a punishment which was regarded by the Indians, as the most disgraceful and degrading they could suffer. To the inquiry, "what shall be done with this man?" the Gov. replied, "we will make a woman of him."

The Indians were all assembled together around the Butte de Morts—the women and children being placed in front. The offender was then brought before them, and Gov. Cass, through an interpreter, explained to them what he was about to do. He spoke to them of the kind intention of the woman, of her object in attempting to preserve their provisions and clothing from the grasp of the heartless whiskey dealer; that, further, the man had struck her with his knife, and, but for the interference of others, would have deprived her of life; that the man who could commit such a deed upon a helpless woman, was unfit to rank among braves, and forfeited his character as a man. The warriors were highly incensed at the interference of Gov. Cass, and a desire to resist his orders was manifested by them, But he proceeded unmoved in the performance of the ceremony. The Indian was deprived of his leggins and ornaments, his knife taken from him, the blade broken off and the handle returned to him. A dirty petticoat, procured from an old squaw, was then put on him, and, thus dressed, he was led through the crowd and pronounced "henceforth a woman!" This sentence was far more terrible to the Indian than death itself It separated him, forever, from association with the braves of his tribe, and subjected him to all the drudgery and servile labor to which the Indians subject their females.

There can be no doubt but that the arrival of Governor Cass at Prairie du Chien, and his subsequent expeditious movements, checked and thwarted a general confederation among the Indians of the Mississippi and the lakes, for the destruction of the miners and settlers. It was ascertained that the Winnebagoes had sent the war pipe and club to call to their aid their red brethren; that

they were gathering to devise measures to act together. In the course of two months, occupied on business relating to this movement of the Indians, Gov. Cass travelled three thousand five hundred miles. He is said to have made the trip from Prairie du Chien to St. Louis in seven days, the shortest time then known. When descending the Wisconsin River, with Major Forsyth, he stopped to visit a Winnebago village, which was so secluded as to escape the observation of any one on the river, not knowing its existence. Wishing to have a friendly conference with the chiefs, he entered the village alone. As he ascended a small eminence, on which the lodges were erected, a young Indian took deliberate aim at him, and was about to fire, when an older Indian struck up his gun, exclaiming—"What are you doing? You will ruin us all!" Upon his approach they began to take down their wigwams—the women and children fled, carrying away, as secretly as they were able, the arms and ammunition of the village. As the Governor was leaving the place, a gun was pointed at him by an Indian. It providentially missed fire. This refusal of the gun to go off, was regarded by the Indians as a token of displeasure from the Great Spirit, and the attempt was not renewed. These circumstances were told by the Indians, themselves, at the subsequent treaty of Butte des Morts.

When the Governor was at Chicago, he sent to a Pottawatomie chief, who lived near there, to come and see him. The Chief refused to comply with the request, and sent word to the Governor, that, if he wished to see him, he must come to his lodge, and, when he got there, he would have his head taken off.

The Indian difficulties of this year were attributable to the withdrawal of the troops from most of the posts which they had occupied in the Indian country. They knew that there were no soldiers on the spot, to punish them for their outrages, and they fancied that they could do as they pleased with impunity. It is a characteristic of the Indian to be insolent and overbearing when he has no apprehension of immediate chastisement. Prairie du Chien, the scene of this outbreak, was, at the time, a small settlement in the heart of the Indian country, at the junction of the Wisconsin and Mississippi rivers. The Sacs, Foxes, Winnebagoes, Menominees and Sioux, all lived in the vicinity. A military

force was obviously necessary to keep the Indians quiet; yet the policy of the government was opposed to such an establishment. The troops were removed from there to St. Peter's, further up the Mississippi. The inhabitants of the whole western country were indignant at such indifference to their safety, and repeatedly memorialized the President on the subject. Particularly in Michigan was this course, on the part of the government, deprecated. Detroit and Mackinaw, two very important and exposed points, were left destitute of a single United States' soldier. This condition of the defences of the Northwestern frontier, was urged with force and earnestness upon the attention of Congress, a year previous to the outrage committed at Prairie du Chien. In a memorial, relating to the measures necessary for the defence of the frontier, Governor Cass reviewed the whole ground, showing how indispensable to the maintenance of our rights and the protection of our citizens, was a policy of systematized and thorough defence, by the construction of military roads, and the erection of suitable and permanent defences. At this time, exclusive of the Indians on Lake Superior and the head waters of the Mississippi, there were, within the territory of Michigan, more than twenty eight thousand Indians, over whom the officers of the Indian department of the British Government, exercised an influence incompatible with the honor of our Government, and injurious to the peaceful interests of the inhabitants of Michigan. Unfortunately, neither the arguments of Governor Cass, nor the petitions of the people, could divert the mind of the senior Major General of the army, from his favorite plan of establishing a cordon of exterior posts, to the neglect of those more interior. Detroit, Mackinaw, Chicago and Prairie du Chien were left without any military force whatever. The experience of the summer of 1827, however, induced a re-occupation of the posts of Chicago and Prairie du Chien.

In the year 1827, Governor Cass procured from the Indians living in St. Joseph County, Michigan, a cession of their lands, for building a military road from Detroit to Chicago.

Gov. Cass received, as has been stated, his first appointment as Governor of the Michigan Territory, in 1813, from President Madison. This appointment was renewed under successive Presidents, and he continued to hold that office until his selection by

Gen. Jackson to fill the office of Secretary of War, in the cabinet of that distinguished man.

His civil administration of the government of the territory, from its commencement to its honorable close, is marked every where as highly beneficial to the advancement of the country, and the welfare and interests of the inhabitants. Great derangement in all civil matters of Government, was the natural and inevitable consequence of the war, increased in this instance by the temporary occupation of the enemy, following the surrender. Disorder prevailed to a degree which would have appalled a man of less energy, and driven him away in despair of establishing peace, order and quiet.

Gov. Cass, with his habitual firmness and decision, seized at once upon those points of organization which were most prominent and needed the earliest and most strenuous attention. Courts were established—civil officers appointed—territorial divisions created and established—and other means devised, calculated to raise the territory from the state of depression and neglect into which it had fallen. As the increase of the population and the extension of the settlements demanded, he established new counties. A system of internal improvement, devoted to the laying out and constructing roads, received from him particular attention ; the establishment of schools and religious institutions, independent of sectarian views, were objects which held the first place in his careful provision for the best interests of the territory. Though born and educated amid the stern inculcations and immovable Puritanism of the Pilgrims, no man in his official character could be more tolerant or friendly to the religious rights of others, or more active in fostering the early attempts of persons of any religious sect to promote the moral and spiritual welfare of the people. In an address delivered before the Historical Society of Michigan, Governor Cass pays the following beautiful and justly bestowed tribute to the self denying spirit and religious zeal of the Roman Catholic missionaries. He says: "The whole history of human character furnishes no more illustrious examples of self devotion, than are to be found in the records of the establishment of the Roman Catholic missionaries, whose faith and fervor enabled them to combat the difficulties around them in life and triumph over them in death."

For a period of eighteen years, did Governor Cass devote himself to the faithful performance of his administration as Governor of the Michigan Territory, amid the privations and hardships of a frontier life. During the first stages of territorial existence, the duties incumbent upon the Executive are more numerous and onerous than under any other form of organization. Not only is he the Executive officer, upon whom devolves the duty to see to the faithful execution of the laws, but he is the principal component of the Legislative department. Under the ordinance of 1787, the powers conferred upon the Executive and Legislative department are very extensive, so much so as almost to reach a point repugnant to the spirit of our constitution and free institutions. The voice and will of the people, which in our government is justly held to be the source of power, in the first grade of territorial government under the ordinance, is entirely lost sight of, and their rights and privileges subjected to the will and caprice of rulers, exercising authority over them, by appointment from the General Government. Under such circumstances it might happen, that the people of the territory would find a tyrannical and exacting ruler placed over them, whose oppressions, though bearing upon them severely, might not be an infraction of the letter or spirit of the law. In a thousand ways might such a ruler prove an annoyance and an infliction, without giving cause or opportunity for his removal. Great latitude is left by the law which prescribes his powers and duties; and innumerable are the instances where he might prove to be a scourge and injury to the people. Nor would it be at all wonderful, circumstanced as the territory then was, should there have been an occasional instance where an individual might deem his rights infringed, or his liberty as a citizen of a republican government, limited by the acts of a territorial Governor, however wise or humane, or careful of acting only under the sanction of legal authority clearly expressed. Yet, during the whole of Gov. Cass' administration, there is no evidence of the existence of a single murmur or complaint against him. No exemption from liability to err, is claimed for him, nor is it pretended that his measures and conduct were free from imperfection; but it is stated as a proof of his devoted attention to the wants of those whom he was called upon to govern, his readiness to listen to and adopt the

suggestions of the wisdom and experience of others. It is hazarding but little to assert, that there is not in the history of our own country, at least, an instance of governmental policy and practice where so much was effected and so little objected to; where there were so many conflicting causes to be brought into harmony; so much concession to be obtained; so many changes in daily and habitual customs to be wrought, as in that period, following the close of the war of 1812, in the territory of Michigan. The true secret of the success of Gov. Cass, was his reverence for that democratic principle, which teaches all in authority under our institutions and laws, to regard the wishes and feelings of the governed. The opinions of the people were held in respect; and basing his administration upon the adoption of the simple, but well established political truth—that from the people emanates all power in a republican government, he conformed his practice thereto, and never gave an arbitrary or overdrawn construction to the organic law of his government, whereby his own powers might be constructively increased, while the rights of the people would be proportionally diminished.

In the speech of Gov. Cass, delivered June 7th, 1824, to the first legislative body convened in the territory of Michigan, the inherent right of the people to the control of public officers, is thus spoken of:—

"The legislative power, heretofore exercised, has been vested in officers over whom the people had no direct control. Authority thus held, is certainly liable to abuse; but its practical operation was restrained and secured as well by the limitations provided in the fundamental ordinance, as by the spirit of our institutions and the superintending control of the general government. Still that change in our political system, which gives to the people the right of electing their own Legislature, is not only correct in principle, but will be found most salutary in its operation.

"The power of appointment to office in free governments, presents for solution, a doubtful and delicate question. In this territorial government, that power is vested in the Executive alone. I feel no disposition on the one hand, to shrink from any necessary responsibility, nor on the other, tenaciously to retain any power originally granted for the public good, but which the public interest now requires should be surrendered. The ordinance of Congress, which forms the basis of our political fabric, was passed thirty-five years ago. It was a political experiment, and successive alterations have been made, and to remedy defects which experience has shown to exist and to accommodate its principles to the advancing opinions of the age. My own observation has satisfied me, that a beneficial change may be made in the mode of appointment to office. All township and corporation, and many county officers, and particularly those whose duties relate to the fiscal and police concerns of the respective counties,

should be elected by the people. In the appointment of others, it appears to me proper to give to the council a participation. No system which has been adopted in the United States, upon this subject, is better calculated to effect the object, than that which requires a nomination by an Executive magistrate, and the concurrence of a deliberative body. By these means we have the advantage of individual responsibility in the nomination, and also a check upon its abuse, in the required concurrence of a co-ordinate branch of the government."

On the subjects of schools and education, Gov. Cass, in the same speech, says:—

"The importance of this subject to our present and future prosperity, must be too well appreciated to require any observation from me. A practical and well digested system, which should extend to all the advantages of education, would be of inestimable value to this young and growing community. A more acceptable service could not be rendered to our fellow citizens; and no more equitable tax can be levied in any country, than one whose application is directed to preparing its citizens for appreciating and preserving the blessings of self government."

In relation to the accountability of the representative to his constituents, the Governor at that early day in our history, expressed the following sentiments. The provision introduced in the lately adopted constitution of the State of Michigan, in regard to representative districts, is only carrying into practice the principle recommended by Gov. Cass, thirty years ago. The Governor says:—

"It is always desirable, that the connection between the representative and constituent should be as intimate as practicable; and with this view, districts are usually established, within which it may fairly be presumed, the electors will be acquainted with the characters and pretensions of those who request their suffrages. When these districts are extensive, and particularly when they embrace a whole state or territory, the immediate accountability of the representative to those among whom he lives, and who know him best, is weakened. I believe it would be expedient to divide the territory into districts, and assign to each the election of two members of the council."

The proceedings of this, the first Legislative Assembly, excited paramount and universal interest among the inhabitants. The Governor's message was looked upon as the guide which should direct their proceedings, and to it the attention of the community was directed. So intimately connected with the public life of Governor Cass, is the condition, growth and prosperity of the Territory, that a full account of the one cannot be given without connecting it more or less with the other. By setting forth the principal topics discussed in the Governor's message, the reader will at the same time obtain the most accurate information of the state of the country, and a convincing proof of the thorough knowledge pos-

sessed by its chief magistrate of its condition, wants, and capacities. The objects recommended by the Governor as requiring legislative action, were,—the establishment of a system of township government, in which matters of local police might be regulated by the people in their primary meetings; the power of appointment and removal of territorial officers; a limitation to the tenure of some of the offices, in order that a more faithful performance of the duties belonging to them might be secured; the necessity of providing competent means for examining and redressing complaints against public officers; the necessity of enacting laws whereby fugitives from justice should be delivered up; the organization of courts, which should make the dispensation of justice convenient and attainable in remote parts of the territory; the advantages to be derived from an efficient organization of the territorial militia; the benefits which would result mutually to the constituent and the representative by a division of the territory into districts; the importance of a practical and well digested system of schools and education; the situation of the roads; changes in the territorial code of laws; and the finances of the territory. These prominent subjects, fraught with the destiny of the territory, were discussed in the message in a manner commensurate with their bearing upon the welfare of the people. The legislative council were governed in their deliberations by the recommendations of the message, and the suggestions of the Executive were responded to by enactments.

In 1824, Governor Cass recommended to the general government that steps should be taken to obtain from the Indians of Lake Superior, the right to explore that country for mining purposes, and to remove such ore or precious metals as might be found there. There were objections then existing to an absolute purchase of the country from the Indians, while all the advantages to be derived, would be quite as well attained by gaining the consent of the Indians to prosecute mining operations, without a cession of their title. The region, which has now become celebrated for its metalliferous fruitfulness, and which is daily becoming settled by enterprizing and laborious inhabitants, was known as early as in the year 1824, to abound in rich mines of copper and iron. Recent explorations and successful results of mining for the last

four years, substantiate the accuracy of the conclusions drawn by Governor Cass in 1824, as to the anticipated value of the Lake Superior country. Writing on this subject, in November of that year, to Col. Benton, of the United States Senate, Governor Cass remarks:

"The metalliferous region is upon and about the lake shore, and the extinction of the Indian title to such a portion of it as may be deemed advantageous, would not diminish their means of subsistence. But I still think, as I thought originally, that it would be most proper to negotiate with them for the right to explore the country, and carry on mining operations, wherever appearances may promise the most productive result. All the advantages we could expect to derive from the mineral riches of the country, would be gained by the right to procure and take away any portion of them.

"No calculation can be made of the extent and pecuniary value of these copper mines. No doubt is entertained but that the metal may be procured with as much ease as in any part of the world. In fact, it is well known, that large masses of pure malleable copper have been discovered in different parts of the country; and there is every reason to believe, that, when those regions are fully explored, these masses will be found to be still more abundant.

"The cost of making the purchase I have described, may be kept within the sum of ten thousand dollars, and full justice be done to the Indians interested. It might, I doubt not, be made for a much less sum, were it consonant to the principles or policy of the Government to procure cessions from the Indians at the lowest possible rate. But it is due to the character of our country, and to the feelings of our citizens, that, in our negotiations with these wretched people, we should remember our own strength and wealth, and their weakness and poverty. That we should look back upon what they have lost, and we have gained, and never forget the great moral debt we owe them."

In pursuance of the suggestion of Gov. Cass, a bill passed the Senate of the United States, at its succeeding session, authorizing the President of the United States, to appoint a commissioner to treat with the Indians, for permission to search for copper on the south shore of Lake Superior. The bill, unfortunately, was lost in the House of Representatives. A year or two afterwards, the necessity for such an arrangement became so obvious that Congress could no longer withhold its assent. In the treaty made with the Chippewas in August 1826, right was granted to the United States to search for and carry away any metals or minerals from any part of their country.

In August 1818, John C. Calhoun, then secretary of war, called the attention of Gov. Cass to the policy of removing the Six Nations of Indians, of the State of New York, to west of the Mississippi. He was instructed, that when he should meet them

in council, he should ascertain whether the Indians, residing on Fox river, or any of the tribes residing north of Indiana and Illinois, would admit the Six Nations among them. This measure of the government was then in its infancy, and was of such a peculiar nature that it required the most delicate and politic management. The Indians themselves received the proposition with disapprobation, if not absolute determination to resist. To urge it upon them then, would have defeated a most necessary step, towards securing peace and safety to the early settlers upon the newly acquired territory. Gov. Cass was of opinion that the time had not yet arrived, for them voluntarily to abandon the land of their fathers, and seek a new home among tribes with whom they were unacquainted, and who might prove hostile to them.

Though favorable to the project, to the end sought by the government, he was opposed to its forcible adoption, and recommended that time should be allowed to prepare their minds for the acceptance of a proposition, which, to them, as a people, was of such vast import, and involving their national existence. He argued, that as the settlements of the whites grew up around them, when their hunting grounds became changed into gardens and graineries—when the game they lived upon should retire before the approach of the white man into the farther west—they too would feel the influences of increasing civilization, and adopt, as a necessity of existence, the proposition of the government. He was in favor of acting upon principles of strict right and justice, accomplishing all things by friendly and fair negotiation, and strict adherence to treaty stipulations. Throughout his transactions, a sense of what was due to the honor of his country and the condition of the unfortunate parties with whom he negotiated, was carefully kept in view. In his report of the treaty with the Chippewa Indians, dated September 30th 1818, the Gov. remarks—"the negotiator of an Indian treaty is not sent upon such a negotiation to ascertain the lowest possible sum for which the miserable remnant of those who once occupied our country, are willing to treat, and to seize with avidity the occasion to purchase. Certain I am, that both you (Sec. of war) and the President would censure me, and justly too, were I governed in my intercourse with the Indians by such principles. The great moral debt which we owe them can only be discharged

by patient forbearance, and by a rigid adherence to that system of improvement, which we have adopted, and the effects of which are already felt in this quarter." In reply to that part of the Secretary's instructions concerning the removal of the Indians, Gov. Cass says:

"Although I am thoroughly persuaded that it would be better for us, and for these Indians, that they should emigrate to the country West of the Mississippi, or at any rate, West of Lake Michigan, yet it was impossible to give effect to that part of the instructions which relates to this subject, without hazarding the success of the negotiation. An indisposition to abandon the country, so long occupied by their tribes; an hereditary enmity to many of the Western Indians, and a suspicion of our motives, are the prominent causes which, for the present defeat this plan. When they are surrounded by our settlements, and brought in contact with our people, they will be more disposed to emigrate."

On a subsequent occasion, the same just and humane views were advocated by him. In fact his intercourse with these people was always of a character to command their respect and ensure their confidence and friendship for him personally.

A striking instance of this occurred at the treaty of the Chippewas in September, 1819, where six millions of acres bordering on the Saginaw river and tributaries, were acquired. After the treaty, when the Governor had left, the Indians deputed their chief and orator, Washmenondeguet, to overtake him and express to him their entire satisfaction with the arrangement and their thankfulness for the kindness and attention shown to them.

One source of great annoyance and damage to the people of Michigan was the annual assemblage of Indians at Malden, the British post at the mouth of the Detroit river, and at Drummond's Island in the northern peninsula, to receive gifts and presents from the British Government. These two points were the principal stations of the Indian department of the British Government, to which the savages resorted annually by thousands. They had been accustomed to visit those places yearly, long previous to the war of 1812, and after its close continued to do so for several years. In the month of July, generally, they thronged into the town of Malden, to receive their share of the spoils to be distributed. They came from long distances—the Chippewa from Saginaw—the Pottawattomie from Lake Michigan—the Fox and Sac from the Mississippi, all met there to receive the bounty of their "Great Father," who lived over the "big water." Presents amounting in value to several thousand dollars were bestowed upon

them. In passing through the settlements of the interior, these Indians, instigated by malice and dislike towards our people, committed depredations upon their property, robbing and plundering whenever they could lay their hands on anything portable. Nor was this the extent of the evil arising from this custom. A feeling of attachment for those who bestowed upon them valuable and costly gifts, was the natural consequence of this system of subsidy, the effect of which could not be otherwise than injurious to the United States. Even in time of peace the evils were sensibly felt, and in the event of war, apprehensions of still worse consequences were entertained by those conversant with Indian characteristics. Governor Cass witnessed and dreaded the influence which this practice, which commenced in 1796, exerted upon the minds of Indians, with whom he was so often brought in contact. Several attempts were made by him to dissuade them from visiting Malden, but without success. They could not be persuaded to forego the benefits accruing to them from the liberality of a foreign power. The attention of the government was directed to this important matter, but it appears to have been suffered to pass unattended to; and what seems most singular, is that the English government should have been permitted to retain possession of Drummond's Island, for the purpose of receiving the Indians there, as late as the latter part of the year 1825, its location within the bounds and jurisdiction of the United States, having been long previously settled by the treaty of peace.

These visits were not without their inconveniences to the people who encouraged them. To the citizens of Malden the Indians were almost an intolerable nuisance. They encamped in and around the town; amused themselves with their customary sports and games, and being generally intoxicated were exceedingly troublesome. The greater portion of them were filthy in appearance, and their rags bore evidence of their slothful and indolent manner of life. Their dress consisted usually of a cotton or calico shirt, leggins and blanket; their feet were protected by moccasins. The Sacs were an exception as to the shirt. That, they considered as exclusively an article of female apparel, and therefore would not wear any; they, however, wore leggins, and covered themselves with a blanket. Their heads were shaved close

to the scalp, except a narrow strip commencing forward of the top and extending down the back of the head. This strip of hair was allowed to grow six inches in length, was made to stand erect, painted red and ornamented with feathers.

CHAPTER VII.

Message to the Legislative Council of 1826—Boundary line between Michigan and Ohio—Constitutional Convention—Action of Congress in defining boundary as a condition of admission of Michigan into the Union—Action of the two Conventions—Final admission—Democratic tone of Gov. Cass' messages.

At the annual session of the Legislative Council in 1826, Gov. Cass, in his message, directed the attention of the Council to the leading subjects requiring their consideration. Notwithstanding his duties, as Superintendent of Indian Affairs, occupied the greater portion of his time and attention during the year, and required his personal attendance at different places many miles distant from the capital of the territory, the wants and requirements of his civil jurisdiction were not neglected or overlooked. Among the principal topics of the message, was the boundary line separating the territory from the jurisdiction of Ohio, Indiana and Illinois. In defining the geographical limits of Ohio, due regard to the rights of Michigan appears to have escaped attention.

The southern boundary of the territory of Michigan, as run by authority of the United States, was a line running due east from the southern extremity of Lake Michigan to Lake Erie. The Legislature of Ohio contended that this line was declared to be the northern boundary of Ohio, by Congress in 1802, and was accepted by the people of Ohio, then about to become a State, with this provision, however, that if the southerly bend or extreme of Lake Michigan, should extend so far south, that a line drawn due east from it should not intersect Lake Erie, or if it should intersect Lake Erie east of the mouth of the Miami river, then in that case, with the assent of Congress, the northern boundary of the State should be established by, and extend to a direct line running from the southern extremity of Lake Michigan, to the most northerly cape of Miami Bay, after intersecting the due north line from the mouth of

the Great Miami, as aforesaid; thence north-east to the territorial line, and by said line to the Pennsylvania line.

Upon this subject of so great interest to the people of the territory, the Governor expressed his views clearly and unmistakably. Familiar with every public act, relating to the territory, to its most minute detail, there was no one who so well understood its rightful claims. Although the question is now settled, it may be interesting to know what was the opinion, at the commencement of the controversy, of one who was conversant with every page and line of Congressional enactments affecting the organization of Michigan. The following extract from the Governor's message to the Legislative Council, delivered in November, 1826, will shew in what light he viewed the encroachments made under apparent sanction of law, upon the lawful possessions of Michigan:—

"The Legislature of the State of Ohio, has contended that the northern boundary of that State, is a line run directly from the southern extreme of Lake Michigan to the north cape of Miami Bay. The line actually run under the authority of the United States, and in conformity with the various acts of Congress upon the subject, commences at the southern extreme of Lake Michigan, and proceeds due east to Lake Erie. The country north of that line, and bounding upon Ohio, is subject to our jurisdiction, and that jurisdiction can only be changed by the authority of the General Government. A resolution was introduced into Congress at the last session, but not acted on, to provide for a cession to Ohio of the country claimed by her. Although I consider the right of this territory too clear to be shaken, and that our interests are safe where alone they can be affected, still the expression of your sentiments upon the subject, would be useful in the discussion it may produce, and I suggest the expediency of your interference.

"With Indiana, also, our boundary is unsettled. The ordinance of Congress of July 13th, 1787, which formed the basis of the governments north of the Ohio, provided that a line to be run due east and west from the southern extreme of Lake Michigan to Lake Erie and the Mississippi respectively, should be the boundary between the States upon the Ohio, and those north of them, if Congress should find it expedient to establish more than three States. The power thus vested, has been exercised by the admission already of three States into the Union, and by the existing provision for the admission of at least one more. The original arrangement of this matter, is in that part of the ordinance which is declared to be a compact, and unalterable but by mutual consent.

"Virginia, by her act of cession, was a party to the arrangement; and her consent, as well as that of the States and Territories to be affected, is essential to the validity of any change in this instrument. The boundary of Indiana has been extended ten miles north of this line, and as the consent of the proper parties has never been given to this measure, we have a right to expect that our just claims will yet be regarded.

"In like manner, the boundary of Illinois has been extended to the parallel of forty-two degrees thirty minutes, probably forty miles north of the line established by the ordinance. How the claims of this territory to the

country that severed from it, can be best enforced, and what time it may be expedient to urge them, I leave for you to determine.

"But there is a question connected with the existing jurisdiction of Illinois, which the interests of an important section of country demand should be settled without delay. The parallel of forty-two degrees thirty minutes, probably intersects the Mississippi in the vicinity of the Riviere aux Fievre. Upon that stream, as is well known, there are various lead mines, to which the Indian title has been extinguished, and which are now profitably and extensively worked. A considerable population is now engaged in this business, much of which, there is little reason to doubt, is in the county of Crawford. Illinois has recently extended her jurisdiction over this settlement, and difficulties have already occurred in the execution of process, which threaten serious consequences. It is desirable that provision should be made by Congress, for running the temporary line, if the boundary cannot be definitively settled; and it would doubtless promote the accomplishment of this measure, should you express your views on that subject in a memorial to that body."

In establishing the boundaries of these several State, the territorial rights of Michigan were clearly and undeniably infringed, and large tracts of fertile country disconnected from her jurisdiction These violations subsequently became subjects of serious controversy, particularly between Michigan and Ohio. When Michigan sought admission into the Union, as a State, Congress interposed and definitely fixed the boundary line between the two states, by making it a condition of admission that Michigan should accede to the boundaries between the states, as set forth in act of admission. This act established the northern boundary of the State of Ohio as follows:—"The Northern boundary line of the State of Ohio shall be established at, and shall be a direct line drawn from the southern extremity of Lake Michigan, to the most northerly cape of the Maumee (Miami) bay, after that line, so drawn, shall intersect the eastern boundary line of the State of Indiana and from the said north cape of the said bay, north-east to the boundary line between the United States and the province of Upper Canada, in Lake Erie; and thence, with the said last mentioned line to its intersection with the western line of the State of Pennsylvania."

A convention of delegates from the people, was chosen to meet at the village of Ann Arbor on the twentieth of September, 1836, to accept or reject the terms of admission proposed by Congress. After a session of three days the convention, consisting of forty nine members in attendance, decided, by a majority of seven, not to accept the terms of admission. Three delegates were appointed

by the convention, to attend the following session of Congress, in behalf of Michigan, to procure an unconditional admission into the Union, or, if that were not possible, one more just in its provisions and more regardful of the well established rights of the territory.

The action of this convention was not sustained by the people generally, and means were at once adopted to call another. Accordingly another convention assembled at the same place, in December of the same year, and, after one day's session, on the fifteenth of that month, unanimously resolved to assent to the requirement of the act of Congress, at the same time declaring it to be the opinion of the convention,

"That the Congress of the United States had no constitutional right to require the assent aforesaid, as a condition preliminary to the admission of the State into the Union.

"Nevertheless, as the Congress have required such assent to the condition, and as the interest and prosperity of the State will be greatly advanced by our immediate admission into the Union, as one of its sovereign States; and the people of the said State, are solicitous to give to her sister States, and to the world, unequivocal proof of her desire to promote the tranquility and harmony of the confederacy, and to perpetuate the unity, liberty, and prosperity of the country;

"Therefore, *be it resolved*, by the people of Michigan in convention assembled, that the assent required in the foregoing recited act of the Congress of the United States, is hereby given."

When the proceedings of this latter convention were submitted to Congress, the validity of the convention was questioned, inasmuch as it was not, as the prior one had been, authorized by any legislative act, but was called by parties friendly to immediate admission, and being only an expression of a portion of the people of Michigan, not binding upon those who had refused to participate. The character of the proceeding prevented many members from voting in favor of the final act of admission; but, after much discussion, the act "to admit the State of Michigan into the Union upon an equal footing with the original States," was passed and became a law on the twenty-sixth day of January, in the year 1837.

The thoroughly democratic tone of the Governor's messages,

especially in reference to the accountability of public officers to the people, received from all parties the highest commendation. He assumed the position, that the purity of Government, the incorruptibility of officers, was in proportion as they were closely or remotely connected with the true sovereigns of the country—the source of all power—the people. He says in his message of November second 1826: "I have heretofore submitted to the legislature, my views in relation to the establishment of a system of township government; but I deem the subject so important, that I must again recommend it to your attention. These institutions have elsewhere produced the most beneficial effects upon the character of the community, and upon the general course of public measures. They embrace within their scope, those questions of local police, which are interesting to every citizen, and which every citizen is competent to discuss and determine. In the more extensive concerns of a county, the necessary regulations for these subordinate matters cannot be adopted and enforced. Besides, in proportion as all governments recede from the people, they become liable to abuse. Whatever authority can be conveniently exercised in primary assemblies, may be deposited there with safety. They furnish practical schools for the consideration of political subjects; and no one can revert to the early history of our revolutionary struggle, without being sensible, that to their operation we are indebted for much of the energy, unanimity, and intelligence which were displayed by our government, and people, at that momentous crisis."

In a special message, transmitted by Governor Cass, to the Legislative Council, November twenty-second, 1826, he expresses the following sentiments on the same subject, "the act of Congress, changing the mode of appointments to office, in this territory, by requiring that nominations should be made by the Governor to the Council, and the act of the Territorial Legislature, limiting the tenure of certain offices, have made important changes in this branch of our local government.

"It appears to me proper, on the first occasion of a general appointment to office, that I should submit to you, principles by which I shall be guided, in the discharge of that portion of the duty which is entrusted to me.

"It is necessary that all persons, bearing office, should possess the proper qualifications and enjoy the confidence of the community. Whenever either of these requisites is wanting, the office will be executed with diminished usefulness. It is not possible, that the comparative claims of all who are proposed, or who are applicants, can be known to the nominating power. He must proceed upon such information as may be given to him. The authority is vested in him, not for his own sake, but for that of the community. I have always considered myself, in the execution of this duty, a trustee for the public, called upon to perform a specific act, in which they alone were interested. There are circumstances, connected with the nature and duties of certain offices, and with the exercise of public suffrage, which render it inexpedient, that all appointments should be filled by popular elections. Where, however, this authority can be deposited with most safety, is a political problem, respecting which much difference of sentiment has prevailed in the United States. Latterly, the opinion has gained ground that the constitution of the general government furnishes the best model for imitation, and that the right of nomination, vested in a single individual, and the right of confirmation or rejection, vested in a representative body, afforded the greatest security which can be devised for the prudent exercise of this power. An elective body is too often without responsibility, and a single individual without control. By uniting the advantages of both, we provide, as far as human institutions can do, against the abuse of this delegated authority.

"An expression of the public opinion ought to have great weight in all nominations to office. Where it is unanimous or uncontradicted, it should be conclusive. In county offices, newly created or occasionally vacated, where the citizens assemble upon proper notice, and without any concealment, and by the form of an election, recommend a person to office, I can conceive few reasons which would justify the neglect of such an application. The process appears to me as little liable to objection as any other by which the qualifications of candidates can be ascertained. But the practical difficulty is, that there is frequently such a contrariety of sentiment, that no general opinion can be collected. Counter meetings are held, and remonstrances transmitted, and different

names are presented to the Executive for each office, supported by the recommendation of respectable citizens. Under such circumstances, there is but a choice of difficulties, and a selection must be made, as the facts in each case may seem to require. I sincerely trust, when any of our fellow citizens find the person recommended by them has not received the office applied for, that they will attribute the result to the duty of examining the whole ground, and of attending to all the representations which may be made, and not to the slightest disregard of their wishes or opinions. It is a task which, however it may be executed with delicacy, must yet be executed with firmness."

On another occasion, the Governor sent the following special message to the Council :—

"At the late session of Congress, an act was passed, extending to the citizens of Florida and Arkansas the privilege of choosing almost all their officers holding their offices under territorial laws; and authorizing the local legislature to appoint the few not eligible by the people. I see no reason why the principles of this act, should not be extended to this territory, and I submit for your consideration the expediency of an application to Congress for that purpose. It will be found that appointments to office thus made, will be more satisfactory than when they are made upon the nomination of a single individual. The people in their respective counties are better acquainted with the qualifications of candidates for county offices, than an Executive magistrate can be, and more competent to determine upon them. This measure would give to the people a direct and proper influence in the management of their affairs—an influence which at all times ought to be exerted in a republican government, and which will be more fully exerted in that change in our political condition to which we are rapidly approaching."

The following opinions of Governor Cass, on ill-advised and frequent legislation, altering, amending, and repealing laws only partially tested, will be admitted by every one to be sound and judicious, and abundantly supported by the experience of the last thirty years. He says :—

"Our code of laws must accommodate itself to the progress of our institutions, and to the more important changes in public opinion. A little observation and reflection, however, will satisfy us that in the United States, generally, legislative experiments have been made too frequently, and with too much facility. Laws are no sooner known, than they are repealed. Important innovations are made upon established principles; and experience, the only sure test in matters of legislation, soon demonstrates their ineffic acy, and they give way to some statutory provision. I trust that a character of permanency will be given to the laws you are about to revise, and that after engrafting upon them such provisions as have been found salutary, they will be left to operate until our legal institutions shall be matured by time and experience."

CHAPTER VIII.

Gov. Cass is called by Gen. Jackson to the Head of the War Department—Motives prompting the selection of Gov. Cass—The popularity of the New Cabinet—Proceedings of the citizens of Detroit on the departure of Gov. Cass for Washington—Address of Major Biddle in behalf of the people of Michigan—Reply of Gov. Cass—He assumes the duties of the department—His Indian policy while Secretary—Black Hawk war—His preparations to bring the contest to a speedy close—Reforms introduced by Gov. Cass in his department—Their popularity—The Indian difficulties in Georgia—Decision of the Supreme Court of The United States reviewed by Gov. Cass—His position sustained by the people and adopted by the President—Defences of the Country—Gov. Cass' views on the subject—Controversy between the Bank of United States and the administration—Nullification—Action of the administration.

In 1831, upon the re-organization, of Gen Jackson's Cabinet, Governor Cass was called by that remarkable man, to the head of the department of war. The venerable patriot who then held the office of President, possessed among characteristics which made him pre-eminent over his fellow men, that of an accurate and ready perception of the character and capacity of others. The peculiar circumstances attending the dissolution of his first cabinet; his own position before the American people, as one, from whom much was expected, deeply impressed him with the paramount necessity of calling around him, to aid him in the discharge of his high responsibility, the first minds of the nation. More than ever, was the utmost care and prudence needful in the selection of his advisers. In this crisis the President justified by his action, his reputation for sound judgment and foresight. He called to his Cabinet, Edward Livingston of Louisiana, as Secretary of State; Levi Woodbury of New Hampshire, Secretary of the Navy; Louis Mc Lane of Maryland, Secretary of the Treasury; Lewis Cass of Michigan, Secretary of War. Roger B. Taney of Maryland was appointed Attorney General. Public opinion at once, decided that a more judicious or popular cabinet could not be formed. The individuals composing it, were well known throughout the country, as among the most distinguished men of the nation, of whom the Republic was proud. They had all been in public life, and were

eminent for their talents, patriotism, business capacities, integrity and devotion to the welfare of the people. It is true, that murmurs were heard, emanating from aspirants for Cabinet honors, that the President should seek a confidential adviser from among the wilds of a far distant territory, rather than from the populous cities and towns of the older States. But Gen. Jackson knew his own position and felt the weighty responsibility that had been thrown upon him. Deference to the claims of the older communities, he sufficiently exhibited in the formation of his Cabinet. The north east, the south and the centre of the Union were there represented by their distinguished men. The growth of the West, the sufferings of her people in time of war, the residence there of men who had experienced all the miseries, and triumphed over the sufferings of border warfare, called for direct participation in the Councils of the Government. General Jackson's own experience taught him, who would be the proper man to represent that section of our country in his Cabinet. Subsequent events confirmed the wisdom of his selection, and the correctness of the public opinion which approved his choice. The influence of such men, upon the destiny of the country, soon made itself manifest The energy with which the administration of the government was carried on, excited the admiration of the candid of all parties, It seemed as if a new spirit had been infused into the body politic. New avenues for individual enterprize presented themselves, and the old ones were occupied with renewed vigor. The fact was established, that the prosperity and advancement of the country, were connected more closely, than they would seem to be to the casual observer, with the rigorous administration of the General Government. In proportion as the President and his Cabinet are alert and active in securing opportunities for national progression, so are the interests of individual members of community promoted.

The condition of public affairs was such under the administration of Gen. Jackson and his constitutional advisers, that every American citizen, pointed with admiration and pride to the progress of our country. Long pending negotiations, with England, involving questions of trade and commerce of the highest interest to our business community, were successfully terminated. Claims against France, Denmark, Sweden and Naples were adjusted and

indemnity obtained, commercial treaties, opening new and advantageous sources of trade, were made. Our ships found their way in peaceable and profitable communication with countries, from which they had been previously excluded. Unsettled difficulties were placed in process of amicable and speedy arrangement, and where it was apparent that negotiation would not obtain for our country our just rights, the determined spirt of the administration pointed to the last resort. Injuries were redressed; outrages, however trivial, affecting the honor of the country were punished. In every foreign court, in all countries, and upon every sea, the administration directed its efforts to the promotion of public interests, and the maintenance and preservation of national honor and faith. The nation never stood higher in the eye of the world, nor could she ever more safely and justly challenge the world to produce an equal. Such was the condition of this Republic, when Lewis Cass formed one of the President's Cabinet.

The people of Michigan, over whom he had so long presided; whose public affairs he had administered for eighteen years, commencing at a period when gloom and desolation covered the land, among whom he had lived and associated, and become almost to each one a personal friend, were averse to his acceptance of any office which would require the severance of the political and personal connection between them. The same sense of duty which had actuated him to exchange in 1813 the privileges and comforts of settled civilization for the hazards and privations of frontier life in the wilds of Michigan territory, with hostile and bloodthirsty savages in a state of warfare—now prompted him to obey the voice of his country, through her Chief Magistrate, calling him to a new and more extended sphere of action.

Gov. Cass accepted the appointment tendered to him by Gen. Jackson. On the eve of his departure from Michigan, a number of citizens, without distinction of party, assembled at a public dinner, given in compliment to Governor Cass, to testify their respect and friendly feelings for their distinguished fellow citizen.

The proceedings on this occasion demonstrate so clearly the high estimation in which the Governor was regarded by all, that a perusal of the proceedings and address of the President of the day, and the reply of Governor Cass, will afford a more correct

view of the relations existing between them, than any other mode of narration.

The address of Major John Biddle, who presided at the occasion, was as follows:

Your Excellency—Our fellow citizens have assigned to me the office of expressing the sentiments which your intended departure from among them has universally called forth. To be the organ of conveying to you these sentiments is a most grateful duty, sympathising, as I do, very sincerely, in the general feeling.

Many of us have witnessed your administration of the affairs of this Territory for a series of years, which embrace a large portion of the active period of life. The situation is one of the most difficult to which an American citizen can be called. The public officer who is delegated, without the sanction of their suffrages, over the affairs of a people elsewhere accustomed to exercise, in its fullest extent, the right of self-government, is regarded with no indulgent feelings. The relation is truly colonial; and the history of Territories, like other colonial history, has been too often a mere chronicle of the feuds of the governing and the governed, exhibiting a domineering and arbitrary temper on the one side, met by a blind and intemperate opposition on the other.

From the evils of such a state of things, we have happily been exempted. You have preserved harmony by wisely conceding to public opinion that weight to which it is entitled under every government, whatever may be its forms; thus giving to your measures the support of the only authority to which the habits of American citizens will allow them cheerfully to submit. The executive powers of the Territory have been administered in the spirit of republican habits and principles too firmly fixed to yield to temporary circumstances, leaving the people nothing to desire but an occasion to manifest their approbation, by bestowing themselves an authority so satisfactorily exercised.

Of the manner in which yourself and most estimable family have performed the courtesies, as well as the graver duties of private life, I will permit myself to say no more than that it has been duly appreciated, and has left an impression not easily to be effaced.

The people of Michigan will long remember your zealous and successful exertions to promote their welfare; and, sir, if the present separation should prove a final one, be assured that they will look, with affectionate interest, to your future career, hoping that in a more extended field of usefulness, it may be as honorable to yourself and as beneficial to your fellow citizens, as that has been which you are now about to terminate. Allow me to propose.

Lewis Cass—Health and happiness attend his future course. May the people of the United States duly appreciate the talents and integrity which Michigan has contributed to the public service of the Union."

The delivery of this address and sentiment was received by the assembled multitude with great and sincere enthusiasm. The speaker had struck a chord which found sympathy in the hearts of all present, and could only find expression in loud and prolonged cheers. When the plaudits and excitement had subsided, Governor Cass rose and responded as follows:—

Fellow Citizens—I return my sincere thanks for this distinguished

mark of your regard, as well as for the very kind manner in which your sentiments have been conveyed to me, by the gentleman who has been called to preside at this festive board. This numerous and respectable assemblage furnishes but another manifestation of that kindness which has never deserted me, during the period of eighteen years, in which I have administered the Executive department of the Territorial Government, and under many trying circumstances, both in peace and war. At the commencement of that period, the Territory had just been rescued from the grasp of an enemy. Its population was small, its resources exhausted, its prospects cheerless. The operations of the war had pressed heavily upon it, and scenes of suffering and oppression had been exhibited, to which, in the annals of modern warfare, we may vainly seek a parallel. We have only to look around us to be sensible how great is the change which has since taken place in our condition. The Peninsula has been explored in every direction, and its advantages ascertained and developed.

The current of emigration has reached us, and is spreading over our forests and prairies. Settlements have been formed, villages founded, and roads opened in every direction. All the elements of social order and prosperity have been called into action, and are combining to form another republic, almost prepared to ask admission into that confederacy, which, protecting all in its hour of security, may appeal to all in its hour of danger, should danger ever approach it. This great advantage is due to the intelligence, industry, and enterprise of our countrymen. These causes will continue to operate, until the vast plain extending from Lake Erie to Lake Michigan, shall furnish through its whole extent another example of the powerful effects of free institutions upon the progress and prosperity of a country.

I have been called, fellow citizens, to another sphere of action. To one where your generous confidence cannot alone support me; and where, I am apprehensive, I shall find the duties as far beyond my abilities, as the appointment itself was beyond my expectations.

But wherever I may go, or whatever fortune may await me, I shall cherish with unfading recollection, the events of this day, and the sentiments you have expressed towards myself, and towards those whom nature and affection have made the nearest and dearest to me.

In severing the connexion which has heretofore united me to the Territory, permit me to thank you for all the kindness I have received from you. I can claim only the merit of having endeavored faithfully to execute the trust reposed in me: and if, at the termination of my long period of service, I leave you without a party for or against the Executive, to your partiality, far more than to my services, must this result be attributed. For that forbearance, as well as for all other marks of your favor, and especially for this, the latest and the last, I beg leave to express my feelings in a sentiment—

The citizens of Michigan—May they be as prosperous as they have been to me kind and generous.

It has rarely been the good fortune of an Executive officer, clothed with such extraordinary powers, as were the Governors of the Territories, by virtue of the ordinance of 1787, to retire from official station, with so little complaint, or without having afforded opportunities, where they might be preferred against him. With the generous feelings, characteristic of the people of the West,

which makes them desirous to render justice where it is due, the people of Michigan did not hesitate to proclaim with united voice, their satisfaction with the Governor's administration, and their unfeigned regret, when their political connection was closed.

In the administration of the affairs of the War department, necessarily onerous and numerous, Gov. Cass brought to bear all the energies of his nature, and the wisdom and experience of his practiced and active mind. In his first report, in December, 1831, he directed the attention of the Executive and Congress, to the necessity of certain changes and reforms, calculated to expedite the business of the department, and render more efficient that arm of national defence committed to his guardianship. Every branch of its various ramifications received his attention, and the most minute details, elucidating his views, were presented, so that conviction of the justness and importance of his suggestions could not fail to be the result of an examination of his positions. The great question of Indian policy, was more directly under his control, than when acting as Gov. of Michigan. To the management of this delicate subject, he applied the knowledge acquired by years of personal intercourse with those people.

In his report, Gov Cass entered into an extended view of their condition and the policy and duty of the government towards them. The experience of a series of years, served to confirm his early formed opinion, that the removal of the great body of Indians to the west of the Mississippi, must ultimately be consummated. The Indian question was at one time fraught with momentous consequences, to the people of the United States, and was the subject of frequent and angry discussion, as well as of misrepresentation and accusation against the justice and honor of the government; and at the present day, requires continued and watchful attention.

No man, could more satisfactorily clear it of its difficulties and perplexities, or devise means to avoid them, than Gov. Cass. A knowledge of his opinions, is consequently indispensable to a correct understanding of so intricate a subject. He remarks on this question in his report.

"The condition and prospects of the aboriginal tribes within the limits of the United States, are yet the subjects of anxious solicitude to the Government. In some of the States, they have been brought within the operation of the ordinary municipal laws, and these regulations have been

abrogated by Legislative enactments. This procedure renders most of the provisions of the various enactments of Congress upon this subject inoperative; and a crisis in our Indian affairs, has evidently arrived, which calls for the establishment of a system of policy adapted to the existing state of things, and calculated to fix upon a permanent basis the future destiny of the Indians. Whatever change may be contemplated in their situation or condition, no one will advocate the employment of force or improper influence in effecting it. It is due to the character of the government and the feelings of the country, not less than to the moral and physical imbecility of this unhappy race, that a spirit of kindness and forbearance should mark the whole course of our intercommunication with them. The great object, after satisfying ourselves, what would best ensure their permanent welfare, should be to satisfy them of the integrity of our views and of the wisdom of the course recommended to them.

"The Indians who are placed in immediate contact with our settlements, have now the alternative of remaining in their present positions, or of migrating to the country west of the Mississippi."

The question is then examined by the Secretary, whether the Indians could maintain their independence, or even preserve their existence, while in contiguity with the settled portions of the country. The subject is most ably aad amply discussed. The conclusion arrived at is, that removal from the contact of civilization is the only alternative left them to ensure their national perpetuity.

"A change of residence therefore, from their present positions to the regions west of the Mississippi, presents the only hope of permanent establishment, and improvement. That it will be attended with inconveniences and sacrifices no one can doubt. The associations, which bind the Indians to the land of their forefathers, are strong and enduring; and these must be broken by their migration. But they are also broken by our citizens, who every day encounter all the difficulties of similar changes in pursuit of the means of support. And the experiments that have been made satisfactorily shew, that by proper precautions, and liberal appropriations, the removal and establishment of the Indians can be effected with little comparative trouble to them or us. Why then should the policy of the measure be disputed or opposed? The whole subject has materially changed, even within a few years; and the imposing consideration it now presents, and which is every day gaining new force, calls upon the government and the country to determine what is required on our part, and what course shall be recommended to the Indians. If they remain, they must decline and eventually disappear. Such is the result of all experience. If they remove, they may be comfortably established, and their moral and physical condition ameliorated. It is certainly better for them to meet the difficulties of removal, with the probability of an adequate and final reward, than, yielding to their constitutional apathy, to sit still and perish.

"The great moral debt we owe to this unhappy race is universally felt and acknowledged. Diversities of opinion exist respecting the proper mode of discharging this obligation but its validity is not denied. And there certainly are difficulties which may well call for discussion and consideration.

For more than two centuries, we have been placed in contact with the Indians; and if this long period has been fruitless in useful results, it has not been so in experiments, having in view their improvement. Able

men have been investigating their condition, and good men in improving it. But all these labors have been as unsuccessful in the issue, as many of them were laborious and expensive in their progress.

"The work has been aided by governments and communities, by public opinion, by the obligation of the law, and the sanction of religion. But its history furnishes abundant evidence of entire failure, and every thing around us upon the frontiers confirms its truth. The Indians have either receded as our settlements advanced, and united their fragments with some kindred tribe, or they have attempted to establish themselves upon reservations, in the vain hope of resisting the pressure upon them, and of preserving their peculiar institutions. Those who are nearest to us have generally suffered most severely, by the debasing effects of ardent spirits, and by the loss of their own principles of restraint, few as these are, without the acquisition of ours; and almost all of them have disappeared, crushed by the onward course of events, driven before them. Not one instance can be produced in the whole history of the intercourse between the Indians and the white men, where the former have been able, in districts surrounded by the latter, to withstand, successfully, the progress of those causes, which have elevated one of these races, and depressed the other. Such a monument of former successful exertion does not exist.

"Indolent in his habits, the Indian is opposed to labor; improvident in his mode of life, he has little foresight in providing, or care in preserving. Taught from infancy to reverence his own traditions and institutions, he is satisfied of their value, and dreads the anger of the Great Spirit, if he should depart from the customs of his fathers. Devoted to the use of ardent spirits, he abandons himself to its indulgence without restraint. War and hunting are his only occupations. He can endure without complaining the extremity of human suffering; and if he cannot overcome the evils of his situation, he submits to them without repining. He attributes all the misfortunes of his race to the white man, and looks with suspicion upon the offers of assistance that are made him. These traits of character, though not universal, are yet general; and the practical difficulty they present, in changing the condition of such a people, is to satisfy them of our sincerity, and the value of the aid we offer; to hold out to them motives for exertion; to call into action some powerful feeling, which shall counteract the tendency of previous impressions. It is under such circumstances and with these difficulties in view, that the government has been called upon to determine what arrangements shall be made for the permanent establishment of the Indians. Shall they be advised to remain or remove? If the former, their fate is written in the annals of their race; if the latter, we may yet hope to see them renovated in character and condition, by our example and instruction and their exertions."

The basis of a plan for the removal and permanent establishment of the Indians west of the Mississippi, was set forth in the report of Gov. Cass. It was one which embraced certain fundamental principles obviously arising out of the nature of the scheme, and, if adopted, would constitute the best foundation for the exertions of the government and the welfare of the Indians. He proposed, First, That the country assigned to them should be guaranteed to them and their descendants, so long as they should continue to occupy it, and that it should be protected from encroachment of the

settlements of the whites. Second, that ardent spirits should be excluded from the new country. Third, that the United States should be at all times prepared with sufficient force to suppres hostilities which might occur among the different tribes. Fourth, encouragement to severalty of property, and such provision for its security as might be necessary for its enjoyment, not afforded by their own regulations. Fifth, assistance and instruction in the prosecution of agricultural pursuits. Sixth—the enjoyment of their peculiar institutions not incompatible with their own safety and that of the people of the United States near them, and with the objects of their prosperity and improvement. Seventh—the eventual employment of persons to instruct them in the acquirement of civilization.

The Indian question had its origin at an early day in the formation of our government. Successive years had not contributed to remove the difficulties which encumbered it, and, although every administration in its intercourse with the gradually wasting nation, which in vain strove to save itself, was marked with the highest degree of justice and benevolence, disaffected and interested persons found what they considered sufficient grounds to traduce the motives and actions of the Government. Like other great and commanding questions, it at length became involved with party politics, and, of course, subject to all the degrees of misrepresentation and accusation, which forms so large a component of party warfare. The recommendations of Gov. Cass, and the action of the administration thereon, did not escape the virulence of party feeling. And yet, the proposed plan was, in fact, but the practical realization of the intentions of his predecessors. There were but few, who devoted attention to the subject, who were not satisfied, by the arguments of the Secretary of War, that the views of the Administration were correct—that it was morally and physically impossible for the Indians to exist in proximity to, and surrounded by the whites; that as a people, they could not be civilized; that they could not be permitted to live an independent people, governed by their own regulations, within the limits of a sovereign State. There must, of necessity, be a conflict between the Indians and the state authorities, and, worse than that, between the general government and the states. Hence the administration of Gen. Jackson adop-

ted the only alternative, the removal of the Indians. To Gov. Cass belonged the accomplishment of this object. The wishes and intentions of the Government were explained to them—they were treated as beings, capable of understanding their true interests; no unfair dealing, no coercive means were adopted; their agreement to remove was voluntary, and obtained by negotiation and explanation; they were convinced that their existence depended upon acquiescence in the views of the Government, and they wisely assented to the ar rangements recommended by the Secretary of War.

The principles urged by Gov. Cass as those which should govern the connection between our government and the Indian tribes, were adhered to in its subsequent action. An extensive and fertile country was assigned to them. Commissioners were sent to visit the tribes who had already emigrated, to arrange conflicting claims; to settle disputed questions of boundary; to reconcile hostile tribes, and to carry out the humane and just intentions of the Government.

In the summer of 1832, the aggressions of the Sac and Fox tribes of Indians had become so daring and extensive, as to call for the interposition of the government. The Secretary of War, (Gov. Cass,) versed in Indian character, and knowing their mode of warfare, adopted prompt and active measures for their subjugation and punishment. The United States soldiers, stationed in the vicinity of the scene of outrage, were concentrated under the command of Gen. Atkinson, and marched to the locality of the enemy. The militia of the State of Illinois and of the western part of the territory of Michigan, were called out in defence of the frontier. Troops were also sent from posts on the Atlantic, to the frontier establishments, to co-operate with the command of Gen. Atkinson. Gen. Scott accompanied and commanded the soldiers from the eastern posts. The forces under Gen. Atkinson marched to the ground where it was supposed the Indians, under Black Hawk, were encamped. When they reached the spot, it was found that the Indians had withdrawn upon their approach. Gen. Dodge was dispatched in pursuit. He overtook them on the evening of the 21st of July, and had a battle with a band of about three hundred Sacs, at a place called Petit Roche, near the Wisconsin river, and

about thirty miles from Fort Winnebago. The Indians retreated towards the river, after fifty of their number were killed. On the twenty-seventh and twenty-eighth of July, Gen. Atkinson, with thirteen hundred men, crossed the Wisconsin, and followed the trail of the enemy until the second day of August, when they came up with the main body of the Indians, on the left bank of the Mississippi, opposite the mouth of the Iowa river. A battle ensued, in which the Indians were routed and driven from their position. One hundred and fifty of them were killed, as near as could be ascertained. The remnant of the band crossed the river and fled into the interior. Black Hawk, with his family, and the Prophet, his brother, were not found among any of the bands of Indians conquered by the troops. They had fled up the Mississippi, for refuge, among the Winnebagoes, who not long after the last decisive battle brought both Black Hawk and the Prophet, and delivered them up to our army.

The energy and promptitude exhibited by the War Department, in adopting at the outset ample and effective means for conquering the refractory Indians, undoubtedly saved the country from the expense and horrors of a protracted Indian warfare, consisting of a series of skirmishes and fights between small parties of both forces. The campaign was soon terminated by the submission of the hostile tribes, who were well satisfied, after witnessing the determination of the government to bring them under subjection, to enter into a treaty of peace, on the terms of the conquering party. Black Hawk and the Prophet, who were the principal instigators of this war, were delivered to the President of the United States, and retained for some time as hostages, for the faithful maintenance on the part of the Indians, of their treaty stipulations.

Gov. Cass introduced many reforms into the details of the management of the several public interests under charge of the War Department. Intimately associated in early life for a long period, with the soldier, while on actual service, he could not fail to observe, that very much might be effected by the Head of the War Department, which would contribute to the comfort of the soldier, while it entailed no increase of expenditure upon the government. A slight attention to apparently trivial evils would be all that would be required to accomplish important results. He had become sat-

isfied that many of the evils incident to military establishments were attributable to habits of intemperance acquired by the soldiers, and not prevented, or sought to be, by military regulations. As a highly necessary step towards the eradication of a custom so pregnant with dangerous consequences, he introduced a salutary change in the subsistence regulations of the army. In lieu of spirituous liquor which had been dealt out to each soldier as a part of his daily rations, he established a commutation therefor, by a specific sum in money paid to each soldier, equal in amount to the value of the liquor to which he was entitled. Beneficial effects resulted from this change, although its full influence was partially obstructed by the opportunity of purchasing from the suttlers of the posts the deleterious article sought to be excluded. Subsequently, by act of Congress, coffee and sugar were substituted for the money paid for the commutation, and the suttlers prohibited from selling spirituous liquors to the soldiers, or introducing it into the military posts, except as part of the hospital stores, to be used in cases of sickness. Public opinion, as well as the acquiescence of the parties mostly interested in this step of reform, sustained the Secretary of War in his adoption of a measure so plainly and forcibly conducive to the well being of the soldier as a man, and to the more efficient and orderly conduct of the army in general.

The advantages to be derived from well disciplined mounted men, especially during Indian hostilities; of an increased and more efficient organization of the topographical corps, were urged in the report of the Secretary for the year 1832, with great force and ability. In this report, also, was an extended view of the condition of the Indians, and of the policy and duty of the government towards them. Gov. Cass also abolished the custom of parading and inspecting the soldiers on the Sabbath; thus enabling them to devote their time, on that day, to the proper observance of its sacred demands upon their attention.

It was at this period that the controversy between the Government and the state of Georgia, reached its crisis. The Cherokees had conceived the idea that by treaties between their nation and the United States, the right to a separate and independent government, within the limits of the state of Georgia, was guaranteed to them. It was contended by Georgia, that she had a right

of civil and criminal jurisdiction over the whole of her lands within her chartered limits, and that her jurisdiction of right, extended to the persons and things within those limits. That by the constitution of the state, final and conclusive jurisdiction in criminal cases, was rested in the courts of the state; and when those courts pronounced the sentence of the law, no other court had the right to rehear, overule or reverse that decision—that no power was granted by the Constitution of the United States to the federal courts to interfere with, or control the criminal jurisdiction of the states. By the laws of Georgia, it was made a penal offence for any person to reside upon the lands of Georgia then in the occupancy of the Cherokees, without licence from the Governor of the state. The mandate of those laws was disobeyed, and the sovereignty of the state, questioned by both Indians and white men, who were induced by a spirit of speculation and thirst for the rich treasures of the gold mines to set at defiance the laws under which they lived. A collision soon occurred between the judicial authority of the federal government, and the executive and ministerial officers of Georgia. The question was carried to the Supreme Court of the United States, and there a decision was given against the claim of sovereignty within her territorial limits, set up by Georgia. This decision had the inevitable tendency to increase the difficulties already sufficiently formidable, in the way of the Secretary of war, in carrying out his wise and humane policy towards the Indian tribes. The decision of the Supreme Court, was to him a subject of great moment. Conscientiously opposed to its doctrines, he examined the reasons and argument by which the court had shorn a sovereign state of its jurisdiction. His masterly dissection of the weakness and fallacy of that doctrine was the subject of unqualified approbation among the most learned jurists of the country. That he was right, the event plainly demonstrated. The policy of which, he was the founder, and firm and consistent supporter, was sustained by the public opinion of the people. Gen. Jackson was upheld by the general voicein his adoption of it. Gov. Cass had the satisfaction of beholding an exciting and delicate question settled upon a basis, formed by himself, upon enlarged views and extensive experience. By his tact, skill, and scrupulous regard for the rights of all interested, he succeeded in estab-

lishing upon an immoveable foundation, the humane and benevolent policy of the government towards an unfortunate and fast disappearing race of men, and averting a rupture between the federal government and a state sovereignty, which threatened consequences full of danger, to the Union.

A question of the like character, arose within the State of Alabama, which brought the state and federal authorities to the very point of collision. The Secretary of war, fortunately interposed, and while he amply sustained the claims and rights of the state, he surrounded the Indians with all the protections which the laws of the United States and treaty stipulations guaranteed them.

In 1836, Gov. Cass made his celebrated and minute report, upon the military and naval defences of the country. In transmitting this document to Congress, Gen. Jackson, took occasion to say, that he concurred in the views expressed by the Secretary of war. There existed at that time, not only much diversity of opinion among prominent statesmen and military men of high rank, in regard to this question, but a great degree of misconception, which subsequent investigation, and more accurate knowledge of the wants of the country in a state of warfare, tended to remove.

The subject, in all its extensive ramifications, was thoroughly examined by the Secretary of war, and while he appreciated to the entire extent, the benefit derived from ample and well appropriated fortifications, he could not overlook the consideration, that a discriminating and judicious application of public money to the erection and full equipment of fortifications, at certain definite localities, would be more advantageous, and more effective for general protection and defence, than an undefined and unregulated system, which would build expensive forts, wherever there was a possibility of an enemy gaining a foothold.

Gen. Cass, after an elaborate examination of the nature and condition of our inland seas, expressed the opinion that our lake frontier required no permanent defences, and that entire reliance could be placed upon the resources, both in the *personnel* and *materiel* in the extent and natural advantages which our country possessed in that quarter. The establishment of a depot, for the reception of munitions of war, in some part of Michigan, was suggested as a matter of expediency and precaution. The lake country from its

location, in case of hostilities might be in some degree, necessarily cut off from expeditious and easy communication by water with the eastern portion of the country, in which event, such a depot would render the means of defence, ample and easily accessible.

Gov. Cass was in favor of erecting a line of defences upon our maritime frontier, which, in case of war, could be used in co-operation with our naval power. He considered that possessing, as we do, three thousand miles of sea-coast, washed by an ocean which separates us from the most civilized and enlightened nations of the earth, who, in case of war with us, would avail themselves of every advantage which that element conferred, to annoy and injure our maritime towns and commerce—it was the first duty of the Government to augment the naval defences of the nation, to an extent proportionate with our resources and necessities. Our points of exposure being numerous and separated, it would be impracticable to keep, at every point, a force competent to resist the attack of an enemy, prepared by naval armament to make a vigorous inroad upon our shores. Hence, argued Gov. Cass, the Government should encourage those branches of interest essential to the growth of a navy; so that, on the approach of danger, a fleet might put to sea without delay, sufficiently powerful to meet any force sent to our coast.

"Our great battle," says Gov. Cass, in this luminous report, "upon the ocean is yet to be fought, and we shall gain nothing by shutting our eyes to the nature of the struggle, or to the exertions we shall find it necessary to make. All our institutions are essentially pacific, and every citizen feels that his share of the common interest is affected by the derangement of business, by the enormous expense, and by the uncertain result of a war. Our history shows, that we are more disposed to bear, when evils ought to be borne, than to seek redress by appeals to arms; still, however, a contest must come, and it behooves us, while we have the means, and the opportunity, to look forward to its attendant circumstances, and to prepare for the consequences.

"There is as little need for inquiry now, into our moral, as into our physical capacity to maintain a navy, and to meet, upon equal terms, the ships and seamen of any other nation. Our extended commerce, creating and created by these resources, which are es-

sential to the building and equipment of fleets, removes all doubt upon the one point, and the history of our naval enterprise, from the moment when the colors were first hoisted upon the hastily prepared vessel, at the commencement of our revolutionary struggle, to the last contest, in which any of our ships have been engaged, is equally satisfactory upon the other. The achievements of our navy have stamped its character with the country and with the world. The simple recital of its exploits is the highest eulogium which can be pronounced upon it."

After setting forth further reasons for providing liberally for naval operations, Gov. Cass proceeds:

"It seems to me, therefore, that our first and best fortification is the navy. Nor do I see any limit to our naval preparations, except that imposed by a due regard for the public revenues from time to time, and by the probable condition of other maritime nations. Much of the *material* employed in the construction and equipment of vessels is almost indestructible, or at any rate may be preserved for a long series of years; and if ships can be kept thus without injury upon the stocks, by being built under cover, I do not see what should restrain us from proceeding to build as many as may be deemed necessary, and as fast as a due regard to their economical and substantial construction will permit, and to collect and prepare for immediate use all the munitions of war, and other articles of equipment not liable to injury or decay by the lapse of time. To build and equip vessels properly, requires much time, as well with reference to the execution of the work, as to the proper condition of the materials employed. Naval means should, therefore, be provided at a period of leisure, to be ready for immediate employment in a period of exigency; and a due regard to prudence dictates that these means should so far exceed the estimated demands of the service, as to supply in the shortest time any loss occasioned by the hazards of the ocean and the accidents of war."

During the period that Gov. Cass was a member of Jackson's Cabinet, party spirit had reached a height until then unprecedented in the political divisions of our country. Never was an administration so peculiarly situated. Questions threatening the disruption of the American Union, arose, among the other difficulties which surrounded it. Timid, weak minded men would have been appalled by the tremendous responsibilities which the President and his Cabinet were called upon to assume, and would have succumbed to the influences brought to direct their action and sway them to the support of powerful but factious interests. On the one hand, that mighty engine of money power, the Bank of the United States, had successfully fought its way through Congress and reached the President with its renewed charter, demanding

his assent thereto. It was well known that as the representative of the democratic party, he could not approve the act. But it was hoped by the friends of that institution, that the action of congress would remove from the President's mind the objections he entertained, and induce him to acquiesce in its proceedings. But they were mistaken in their conception of the man. With unshrinking firmness, sustained by his Cabinet, he returned the Bank charter to Congress, vetoed. The nation sanctioned the act, by re-electing him the same year, for a second Presidential term.

Another formidable difficulty at the same time beset the administration, in the threats of secession from the Union, of one of the States. South Carolina, considered herself aggrieved by "the acts and parts of acts of the congress of the United States, purporting to be laws imposing of duties and imports on the importation of foreign commodities" and more especially by "two acts for the same purposes passed in May 1828 and July 1832." Preparations were made to resist the operation of those laws within her limits. A Convention was held—inflammatory speeches and addresses delivered and an ordinance adopted, requiring from the citizens of that state, resistance to the laws of the United States. The administration was equal to the emergency. As coming immediately within his own department, Gov. Cass, at this eventful crisis, issued directions to the Commandant of the military force of the United States, then in South Carolina. His instructions were such as true patriotism would dictate. While on the one hand, he was determined to sustain the authorities of the Federal Government, and enforce its laws; on the other, he was anxious that no cause of complaint should exist against the government in regard to the disposition and conduct of the army. With this view he directed that the commanding officer, should in all cases, while there was a prospect of difficulty, look to the Department for instructions. Under the emergency then existing, it was deemed expedient, that the President alone, if collision should arise, should direct the army.

The proclamation of the President was issued, in which the subject of nullification is discussed and dissected in the clear and lucid manner which renders the state papers of Gen. Jackson so satisfactory and comprehensible to all. Its doctrines were precisely such as were expected from an administration with the vener-

able chief Magistrate at its head. The unity and harmony of the states he was determined to preserve. The right of a state to nullify an act of Congress, was demonstrated to be the mere speculation of politicians with treason in their hearts. The eloquent manner in which the subject was presented; the pure and lofty patriotism of the argument, the indisputable truth of the sentiment, and the firm and immoveable position of the Executive, commanded the assent and admiration of even the political enemies of the administration. The nullifiers themselves did not openly become converts from their position, but the storm of disunion was stilled--the country was saved; men began to reflect on the foolishness, and the hopelessness of rebellion against the federal government, and the administration of Gen. Jackson had the pleasure of witnessing the turbid waters of nullification settled and clarified by its wisdom, firmness and patriotism, the precusors of subsequent satisfactory legislation.

The action of the administration on these two exciting subjects, which convulsed the Union from one extremity to the other, satisfied the reflecting, of all parties, that the President and his cabinet were the firm, immoveable defenders of the Constitution. Influences, which but few men could have resisted, they battled manfully, until the bank on the one hand, and nullification on the other, bowed in submission to the decision of the powerful and patriotic minds, which then directed the affairs of the country. The Union, by which Gov. Cass has ever stood, with out stretched arm for its defence, was brought safely through a contest which shook it to its very centre. The judgment of the wise and fearless statesmen, who, in that hour of peril, shrunk not from duty, was sanctioned by the voice of a grateful people, who never neglect or forget their faithful public servants. The gratitude of a Republic may be slow in its manifestation, its efforts at expression may, by momentary feeling, unworthily aroused, be retarded or temporarily frustrated, but the " sober, second thought of the people, which is seldom wrong and always efficient," is sure to make ample and triumphant amends for the misfortune of its first defeat.

Gov. Cass was at the head of the war department for nearly six years. His connection with it was terminated by his acceptance of the embassy to France, in which station he gained a world-wide celebrity, as a statesman and diplomatist.

CHAPTER IX.

Gov. Cass accepts the embassy to France—He departs on his mission—His vigilance in guarding the rights of his country—He thwarts the attempt of the English Ministry to obtain universal dominion on the high seas—His examination of the question of the Right of Search—His protest laid before the French Ministry—Subsequent proceedings.

The laborious duties of his department having for a period of nearly six years required and received the continued attention of Gov. Cass, his health became impaired by confinement and the unceasing devotion of his time to his official duty. He was in consequence compelled to withdraw from the Cabinet, greatly to the disappointment of the President, who expressed a desire that he would if possible remain until the expiration of the presidential term. But the state of his health forbid his continuance in that station. He resigned, and the President, unwilling that the nation should lose for any period the direct influence of Gov. Cass' experience and sound judgment in the management of its affairs, tendered him the embassy to France. This appointment, being consistent with the intention of the Governor to visit the old world, was accepted; and, in 1836, he departed from his native shore, to represent his country at the court of one of the great powers of Europe, where he would meet the ablest diplomatists of the world, and whose schemes might perhaps be aimed against the interests of his own country.

While minister to France, Gov. Cass watched with care and attention the movements of the European Courts. With a regard for the interests and honor of his own country, he permitted no question of diplomacy, having the least bearing upon the condition or prospects of the United States, to escape his strict and energetic scrutiny. The English government, considering herself mistress of the seas, assumed to draw up treaties regulating the intercourse and relationship of ships of different nations upon the high seas. Regardful of her own pretensions, she is never scrupulous of the

manner or the place where she shall prefer them; nor has she ever been, nor is she now, disinclined to exert all the arts of diplomatic cunning to blind the eyes of those whom she seeks to bring within the power of her arm, or whose co-operation she desires, to assist in the attainment of her objects. Aspiring to the unlimited and acknowledged mastery of the seas, she sought to unite the five great powers of Europe in a treaty recognition of the right of search. Austria, Russia, Prussia and France, were, with herself, to be the contracting parties in the affair. The right of search had ever been opposed by the American government; and in her persevering efforts to establish the doctrine, England had been successfully resisted by the United States for more than thirty years. Under the specious pretence of preventing the trade in slaves, she again revived her pretensions, and so far influenced the governments of Europe, as to induce them to sign the treaty she had prepared. The ratification of this treaty, and its execution, would have once more brought us into collision with England. Happily at this juncture, Gov. Cass, acting upon his own responsibility, appealed to the people of France, and protested to its government against its ratification by the legislative branch of the French government. The ratification by France was necessary to give it vigor and power. If that country and the United States should oppose it, as most assuredly the latter would, its provisions could not be enforced, though the other four powers should countenance it. The appeal and protest of Gov. Cass, were effectual. The French Chamber of Deputies refused to ratify the treaty. The stand taken by Gov. Cass, thwarted the design of the English Government, and broke up the conspiracy she was forming against the sovereignty of the United States, upon the free seas of the world. It was this masterly movement of that distinguished man, that at the same time preserved the honor of his country untarnished, and ensured the continued peaceful relations between her and England; while a not less beneficial result was attained, by preventing France, our first friend and ally, from becoming entrapped into the position of aid and supporter of pretensions and arrogance, to which the United States never would submit.

It will be well to dwell for a moment on the consequences averted by the action of Gov. Cass. If France had ratified the treaty,

being a party to it, she would have been bound to keep her faith and enforce its requirements. England, backed and upheld by her great allies, would have become more than ever arrogant, and the vessels of the United States would have been at the mercy of her naval officers—subject to be stopped and searched—and liable to interruption and insolence, every where upon the high seas. Submission to this indignity, there would not have been, but there would have been war. That would have been inevitable, and with it, would, in all probability, have been a depression of our trade and commerce, and we would be made to appear as if fighting to sustain a trade, which the enlightened powers of Europe were endeavoring to destroy. England, supported by her treaty, and the countenance of her allies, would have said: "We are endeavoring to destroy the infernal traffic in human flesh. You oppose us, and for this we fight you." Such would have been her language, though false. We would have fought her upon the highway of nations, until the last spar was broken, and as long as there was a rag to flutter in the breeze; but it would have cost us an incalculable sum, and thousands of noble lives. France, thus placed by Gov. Cass, with the United States, as the committed defenders of the liberty of the seas, made England pause in her onward course after maritime absolutism, and seek in truth and reality, by negotiation, the object which before was only used as a cloak for other and selfish purposes. In a pamphlet entitled, "an examination of the question, now in discussion, between the American and British Governments, concerning the right of search," Gov. Cass laid before the world the true issue, with the circumstances arising out of the peculiar relation to it, and the grounds upon which the demand of the British Government and the refusal of the United States, were maintained.

The proceedings of our Minister upon this question of gravest import to the world, should receive the study and examination of every citizen of the United States. His own reasons and arguments for his course, present a view of the entire subject, which must carry conviction of its propriety, to every mind not closed against the light of reason and the force of truth. The following document, written and published by Gen. Cass, in Paris, in Janu-

ary, 1842, will convey to the render a full exposition of the great and complicated question which it discusses.

THE RIGHT OF SEARCH.

An examination of the question, now in discussion, between the American and British Governments, concerning the Right of Search. By an American.

When we doubted, we took the trick.—*London Times, Jan.*, 1842.

The right of maritime search, now in discussion between the British and American Governments, is a grave question, practically interesting to all nations, to whom the freedom of the seas is dear; if not in its application to the subject, which has been the cause or the pretext of its assertion, at any rate, from the consequences to which its use or abuse may lead. Its connexion with the African slave trade is but incidental, and the nature of this traffic, which no where finds advocates, cannot affect the nature of this question; nor the right of a state nor of a combination of states to make an interpolation into the law of nations, which shall become a part of that great public code. Great Britain professes to push this point, in order to destroy the yet existing relics of that trade. We do not question her motives; that is no part of our purpose. But in all general discussions, we must take human nature, as it is, with the good and the bad blended together; that we may, without offence, fairly follow out the application of a principle, and seek its consequences to the parties. And we are at liberty, without violating any of the courtesies of a liberal controversy, to assume, that neither can be indifferent to its bearing upon their interest, whatever motive of general benevolence may have led to the difference. Great Britain is eminently a maritime and commercial nation, and the history of her naval progress, during the last century and a half, is pregnant with lessons for all people interested in the freedom of the seas. She has marched steadily on to her object. Naval superiority she has acquired, and naval supremacy she seeks. We say this in a spirit of truth, not of offence. Human ambition is every where, in some form or other, in ceaseless action; and upon sea and land, the history of the past is but the warning of the future; and nations will strive, as they have striven, for power. It is impossible, that the intelligent government and people of Great Britain should shut their eyes to the effect of this claim of a right of search upon their interests, whatever motives of philanthropy may have led to its first suggestion. To their flag it will give the virtual supremacy of the seas. We say *virtual supremacy*, because it would be found in practice, that ninety nine times out of a hundred, it would be her cruisers which would search the vessels of other nations.

During twenty five years the British Government has urged the Government of the United States to consent to this measure. The application has been steadily repelled, and pertinaciously repeated.

In the mean time treaties have been formed, at various intervals, between Great Britain and some other nations, establishing a mutual right of search, and regulating the principles upon which it shall be exercised. Within a short time, five of the European powers, two of which have few vessels upon the Ocean, and probably not one on the coast of Africa, have reciprocally made themselves parties to a similar convention. "Great Britain," says the London journal, *The Times*, "has *managed by great exertions* to accomplish this object." We do not judge, if the expression is rightly chosen. It is certainly very significant. And now, this principle of the right of search, in a time of profound peace, heretofore never claimed as a question of right, and so solemnly decided by the English admiralty judge, Lord Stowell, but sought as a conventional arrangement, for the first time, since the last general war in Europe, and established by treaties with several powers, as a matter to be regulated by themselves, is claimed by Great Britain to be a part of the law of nations, which she has both the right and the will to carry into effect, as a sort of *custos morum* for all the maritime powers of the world. "All our government contends for," says the *Times*, "is the mere right to act as constables in boarding suspicious ships, bearing the American flag." And who made England the great Prefet of police of the Ocean, searching and seizing at pleasure? And the United States, who have so long been asked to yield this point by convention, are now told, that it is established without them, and in spite of them; and the great ministerial English journal, *The Times*, in a leading article of its number of January 5th, 1842, after defending this interpolation into the law of nations, says, that the European powers, parties to the last treaty, will not brook to be thwarted by any ordinary restiveness. It thus significantly concludes. "A single war with Great Britain she (the United States) has already tried, a war, on her part, with all Europe will be a novelty."

There is certainly no want of frankness here. While the special ambassador, lord Ashburton, goes out, with the professed objects of peace and conciliation, we are told in effect by this leading journal, that the United States have but one course to adopt, in order to avoid a war with the European world, and that is, submission to the demand of England. There are powers, parties to the late treaty upon this subject, which we shall not believe will make themselves parties to a war with the United States, until we actually hear the sound of their guns. Does the *Times* speak by permission, or by command, or by neither? Is this declaration a prophecy, as well as threat?

As to the suppression of the slave trade, it is a question, which meets no opposition in the United States. The American government, if not the first, was among the first to give the example to the world, of a legal prohibition of this traffic. As early as March 22d, 1794, they commenced their legislative measures for its repression, and in subsequent laws, passed 10th May, 1800, 28th

February, 1803, 2d March, 1807, 20th April, 1818, and 3d March 1819, they extended and enforced the provisions and penalties upon this subject, and rendered liable to heavy fines, and among other punishments, to an imprisonment of seven years, those, who should be engaged in this nefarious pursuit. Their armed cruisers have permanent instructions to examine all the American merchant vessels they meet, and which they have reason to suspect; and their tribunals enforce these repressive laws with as much promptitude and impartiality, as those of France or England enforce similar laws. That violations may occasionally occur, and that the American flag may be sometimes abused, we feel no disposition to deny. Not by the introduction of slaves into the United States, for that traffic is unknown, and would be impossible. We may venture to assert, that not a slave has been imported into the United States for thirty years. We would not be guilty of deception upon this subject, and if there is a single exception to this statement, we have never learned it. If American interests are connected with this traffic, it is in the transportation of slaves to Brazil or to the Spanish colonies. But even this is much rarer than is supposed, and what has given occasion to the imputation of its frequent occurrence is the fact, that the sharp Baltimore schooners, well known for their speed, are often sold to the Spanish, and Portugese merchants, and are then fitted out for the slave trade. Every practical sailor knows them at once, and, as they are American built, they are supposed to be American property, when, in truth, their national character is changed. But any candid, intelligent man will at once see and acknowledge, that in a scandalous traffic like this in human beings, condemned by the public opinion and by the laws of the United States, and watched perpetually by one of their squadrons upon the coast of Africa, revolting to humanity, afflicting to all Christians, and reprobated by the civilized world, the pecuniary interests of a few degraded men, who covertly pursue it, by associating their capital with the regular slave dealers of other nations, would not weigh as the small dust of the balance with the American government, in any consideration, connected with this matter. This miserable motive has been hinted at, rather than distinctly charged by some of the English journals. We shall not descend to refute the charge. No administration in the United States, giving the least just ground for such an imputation, could resist the public indignation. No, it is not African slavery the United States wish to encourage. It is, as we shall see, by-and-by, American slavery, the slavery of American sailors, they seek to prevent.

But after all, a crusade of benevolence cannot be carried on against any nation, because its laws are sometimes violated and its flag abused. If its government connives at such measures, then, indeed, it is justly liable to the reproach of Christendom. But against the United States there is no pretence for such an imputation, and the question now under discussion must be judged, inde-

pendently of these accidental evasions, which are common to all nations and to all codes.

As to a right of search in time of peace, no one pretends it has heretofore existed. The well known English admiralty judge, Sir William Scott, afterwards Lord Stowell, whose disposition to enlarge, rather than to restrain the maritime pretensions of England, no one, who knows the course of his decisions, during the last general war, will doubt, expressly decided, that such a right was unknown to the law of nations. This decision, in the case of a French vessel, seized upon the coast of Africa, absolutely puts down all this pretension in the most authoritative manner.

"No nation can exercise a right of visitation and search upon the common and unappropriated parts of the ocean, except upon the belligerent claim. No nation has the right to force their way, for the liberation of Africa, by trampling upon the independence of other states, on the pretence of an eminent good, by means that are unlawful, or to press forward to a great principle, by breaking through other great principles, which stand in their way."

But it may be asked, as the object, for which this measure is now demanded, is just, why does not the American government assent to the propositions, which have been made. Is this reciprocal power more injurious or less honorable to the United States, than to other nations, who have admitted its obligation? The question is a fair one, and ought to be fairly met. If this cannot be done we shall not deny, that the motives of the United States may be fairly suspected, and their conduct arraigned at the bar of Christendom.

In the first place, we would remark, that there is a natural indisposition in the human mind to yield to applications, which are accompanied with threats of the consequences. This sentiment is common to nations, as well as to individuals, and, in fact, forms part of the dignity of human nature. English pertinacity in demanding has been met by American pertinacity in resisting: and now, when the United States are summoned to give their adhesion to a new principle of public law, against which they have uniformly protested, since its first promulgation, and are told by Lord Aberdeen, that the course of the English government is taken, and that this claim will be enforced, with the taunt that, "It is for the American government to determine, what may be due to a just regard for their national dignity and national honor," no generous people can fail to find in their present position that just resistance to dictation, without which there can neither be self-respect at home, nor honorable estimation abroad.

But, besides, where would end this doctrine of interpolation? Who can tell the extent, to which it may be pushed, or the purposes, to which it may be applied? It is by progressive steps, that many a pretension, hostile to the best dictates of reason and humanity, has urged its way to recognition, and taken its place in the code of maritime laws. Belligerent powers are always ready

to break down the feeble barriers, with which public opinion has endeavored to protect the rights of peaceful traffic; and in the *Times* of the eighth instant, this process is described and defended with equal frankness and coolness. The lessons of the past are lost upon him, who does not read in this avowal, the contemplated transformations, which the great maritime code is destined to undergo. An act of violence of yesterday, so pronounced by the Duke of Wellington and Lord Stowell, becomes the doctrine of to-day, and to-morrow finds itself firmly established, to be defended by jurists, enforced by cannon, and applied by courts of admiralty.

"And the same kind of general proscription, since attempted by Napoleon against ourselves, has equally failed to gain admittance into the international code. In all this, history, justice and expediency have alternately triumphed, *but each step has been the result of a struggle*, (the italics, here and elsewhere, are our own), such as is now pending between ourselves and the United States. *Law has always had to work its own way.*" Significant words these, and as true as they are significant. When force more and more usurps the place of justice, *law works its own way*, and it goes on bearing down before it the doctrines of jurists, the decisions of judges and the rights of the world.

But apart from these general considerations, applicable to all changes in the maritime code of nations, there are cogent reasons, why the United States should refuse their assent to this measure, some of which are common to them and to all other States, which do not seek to exercise the police of the seas, or as the *Times* says, to be the *constables* of the ocean, and others, which are proper to them only, arising out of the peculiar relation, which a community of language, manners and institutions, exerts between them and England.

Looking to this right of search, as a measure affecting the commerce of the ocean, it is arbitrary, vexatious, and not only liable, but necessarily, liable to serious abuse.

It is arbitrary, because it constitutes a naval officer, whatever may be his rank, the judge to decide upon serious questions, and upon grave interests. It permits a foreigner, under the pretence of settling the national character of a vessel, and the objects of her cruize, to indulge his antipathies or his love of gain, by seizing the ship and cargo, and imprisoning the crew, and by sending them to a distant port for examination; and all this without any practical redress against the wrong doer.

It is vexatious, because all, who know anything of the course of boarding ships and boarding officers, under similar circumstances, know, that the search is pursued with little regard to justice or forbearance. There is power on one side, and weakness on the other The American vessels, during the long period of lawless domination, which the belligerent powers exercised over the high seas for many years, at the close of the last century, and at the commencement of the present, were too often the victims of a similar search,

instigated frequently by cupidity, and conducted in the most injurious and offensive manner, to leave any doubts respecting the course, which would be taken, should this claim be recognized. In this condemnation, we speak now of what is history. We stop not to examine the value of the pretensions, by which these aggressions were sought to be justified; that the antagonist party had commenced this work of violence; nor the truth of the charges, thus respectively preferred. And the vessels of France, of the United States, and of the Hanse towns have already had a foretaste of what will occur, when a few years more shall have consecrated the present doctrine, as an acknowledged principle of international law. The crews will be paraded and examined, perhaps by a young midshipman, and this offensive operation will be rendered more offensive, by that kind of insolence, which is every where the sure accompaniment of unchecked responsibility. This tendency to abuse cannot be better described, than it has been by the London *Sun* and as its views, upon this question, are more authoritative than ours, we shall quote them. It says, that arbitrary habits "are engendered and maintained in our naval officers by the mode employed to procure men for the fleet, and those habits make them treat foreign vessels in an arbitrary manner." So far as respects the treatment of merchant vessels, this is true to the letter. And once establish this right of search, and the scenes of violence, which checquered the ocean for twenty years, will again be renewed. The hatches will be broken open, the cargo overhauled, property dilapidated, and many articles will be taken, as they have been taken, without permission and without compensation. This has often happened, and is an abuse, inseparable from such proceedings. Prohibited and deplored, no doubt, by all honorable officers of a boarding ship, but, where might makes right easily effected, and not easily detected and punished. The annals of American voyages abound with similar incidents, which occurred during those stormy periods. And the complaints were not confined to the conduct of one of the belligerent powers, though one from the number of its cruizers, if for no other cause, was much more injurious to the American commerce than the other.

We speak of all this, as an historian, but we speak of it, as an historian, holding up the past, as a warning, and predicting, that the future will bring with it the same consequences, if the same causes are put in operation. The Journal, the *Scotsman*, is perfectly correct in its appreciation of the American feeling, when it says, "We have little doubt, that the arrogant and indefensible right of search, claimed by Great Britain in the last war, lies at the bottom of the stubborn hostility of the Americans to the reasonable propositions of our government."

But again, this claim is liable to serious abuse, because, there are strong temptations, both national and individual, to pervert the professed objects of the search into others, which though not avowed, are apparent; and because the remedy is distant, expensive and doubtful.

The commerce of Africa is already important, and is becoming more so every day. The very suppression of the trade in human beings will tend obviously to turn industry and capital into other branches of employment. England is now exploring the interior of that great Continent, and with her accustomed foresight is pushing her intercourse with the native tribes, and preparing new means of communication. Who can doubt, but that English cruizers, stationed upon that distant coast, with an unlimited right of search, and discretionary authority to take possession of all vessels frequenting those seas, will seriously interrupt the trade of other nations, by sending in their vessels for trial under very slight pretences, and in fact under no real pretence whatever. For we must not loose sight of one of the most important elements in all this controversy; which is, that the mere appearance of a merchant ship in those regions is *ipso facto* suspicious. This is the very ground work of the English pretension; the right, as her government now contends, to ascertain by actual examination the true character of every vessel, found in "*certain latitudes*," which are assumed to be *suspicious;* as the quarantine regulations presuppose many regions to be always pestiferous. Under these circumstances, a boarding officer, stimulated by that reward, which a successful capture always brings with it, and by a determination, which may not be uncharitably charged to him, of favoring the trade of his own country, and of discouraging that of another, will readily believe, or affect to believe, not that there is just ground to suspect the destination of a vessel; that, her very appearance upon his cruising ground furnishes, agreeably to these new *institutes;* but that the redeeming circumstances about her are not sufficient to establish, that her cruise is a lawful one, or that she is entitled to the national character, she claims; and that she must be sent to a Court of Admiralty, to one of those great Maelstroms, which swallowed up so many American ships, during that period, when there was no right upon the ocean, but the right of force. The vexation and interruption of voyages, the result of this system, are easily understood. A trade carried on under such unfavorable circumstances, cannot contend with the trade of a favored nation, who herself, exercises the police of the seas, and who may be harsh or lenient, as her prejudices or interest may dictate. It must be abandoned, as some of the Paris journals of the eighth instant announce, that the French vessel the *Sophie* has just changed her destination, rather than subject herself to the vexations, which another French ship the *Marabout* had experienced from the English cruisers upon the coast of Brazil. As to the indignity, to which this proceeding will expose the officers and crews of merchant ships, that must be left to every nation to appreciate for itself. It is not probable, that the pretension will be rendered less offensive by the mode of its execution.

But beyond all these objections, applicable in common to every maritime nation, there is another, far more powerful in its operation, and which, from the peculiar relation of language, manners

and institutions, that exist between the United States and Great Britain, renders this measure, not only obnoxious, but to the last degree unacceptable to the American government and people. We would not impute unworthy motives to a great and intelligent people, and Great Britain has done enough to command for herself her full share of the admiration of the world. But we must take human nature as we find it, and the code of political ethics is a loose system, where there is much, both of good and evil. Amidst many gradual meliorations in the constitution of England, she has adhered with wonderful tenacity to certain pretensions, arising out of feudal notions, and among others, to one by which she claims that every person born under her government is forever a British subject, and that if he is by condition a seaman, he is liable to be taken, wherever he can be found, and forcibly compelled to serve an unlimited period on board her vessels of war. This is not a conscription which operates equally upon all, subjecting all to the same chance, and requiring their services upon established conditions, and for fixed periods. However, so far as this is a municipal regulation, other nations have no concern with its justice or policy, except as a subject of general speculation. But unfortunately for the duration of harmony between the United States and Great Britain, this pretension is a subject of fearful importance. The British government claims the right of impressing seamen on board the merchant vessels, of the United States, and once, as is well known, they exercised this right on board the *Chesapeake* frigate, after an action in profound peace, when the American ship was compelled to yield to superior force. The conduct of the commander was however disavowed, but his zeal was rewarded by promotion.

It is now matter of history, that for many years, the British armed ships boarded the American vessels, wherever they found them upon the ocean, and seized their crews, incorporating them with their own, and compelling them to fight the battles of a foreign power; first against France, and ultimately, after the commencement of the war, to which these aggressions gave rise, to fight against their own country. In theory, indeed, the British government did not arrogate to itself the right to impress American citizens, unless those citizens had been born British subjects. In that case, the new character with which they were invested, gave them no protection against this pretension. But in its practical operation, this power was exercised with a general disregard of the character of the American crews, the boarding officer being the final judge, and the cruiser being almost always in want of able seamen. A midshipman entered an American vessel with absolute power, mustered the crew, declared that such and such persons were British subjects, seized them, and transported them to his own ship, to be released by death, or by a general peace.

Vain were the protestations of these unhappy victims of lawless aggression; vain the opposition of the captain; vain the proofs

furnished by the papers. His Britanic majesty's ships wanted seamen, and seamen they took. During many years, a warm diplomatic correspondence was carried on between the two governments, but the argument being exhausted, and the abuse continued, an appeal was finally made to arms.

The British government said, our seamen seek protection in the United States, and enter into their marine, and thus escape from the duties, they owe to their own country. We have a right to their services, and we have also a right to take them, wherever we can find them in merchant ships on the high seas, having first entered these ships for another purpose.

To this, the American government answered, we deny the doctrine of perpetual allegiance. Our country is open, and if foreigners come here, after a certain number of years, and compliance with certain established formalities, they may be invested with the character of American citizens, and then it is our duty to protect them. You adopt the same principle, and follow the same practice; you naturalize by special Acts of Parliament; you naturalize all persons, who reside a certain number of years in your colonies; and *you naturalize all seamen, who have served* a short term in your navy. At this moment, the Governors of some of your colonies are compelling emigrants from the United States to bear arms against us.

We have just turned to M'Culloch's Dictionary of commerce to ascertain how far the American Government were borne out in their assertion, respecting the naturalization of foreign seamen by the British law, and there we find, page 1011, that among other means of naturalization, a foreigner who has "served on board his Majesty's ships of war, in time of war, for the space of three years, becomes a British seaman. "But his Majesty may, by proclamation during war, declare that foreigners, who have served *two* years in the royal navy during such war, shall be deemed as British seamen."

The act of Congress, respecting the employment of seamen in the American service provides, that no person shall be employed in the public or private vessels of the United States, who is not a native born or naturalized citizen. Another act on the subject of naturalization provides, that "no person can become a citizen of the United States, who shall not, for the continual term of five years next preceding his admission, have resided within the United States, without being at any time during the said five years, out of the territory of the United States." In the one country a foreigner can enter into the marine service, without the probation of a moment; and after serving three years, he becomes *ipso facto* a British seaman. Into the marine service of the other, no one but a native can enter, till he shall have actually lived five years in the country, without departing from it.

In the whole history of human inconsistencies, few chapters can be found more striking than this. But the United States were

anxious to avoid a war with Great Britain. They were willing to concede much to avert this extremity. They exhausted the catalogue of arguments and of offers. Thus speaks the President of the United States in his message of June 13th 1812, recommending war, "this practice," that of impressment, "is so far from affecting British subjects alone, that under pretence of searching for these, thousands of American citizens, under the safeguard of public law, and of their natural flag, have been torn from their country, and from everything dear to them, have been dragged on board the ships of war of a foreign nation, and exposed, under the severities of their discipline, to be exiled to the most distant and deadly regions, to risk their lives in the battles of their oppressors, and to be the melancholy instruments of taking away the lives of their own brethren."

Against this crying enormity, which Great Britain would be so prompt to avenge, if committed against herself, the United States have in vain exhausted remonstrances and expostulations; and that no doubt might be wanting of their conciliatory disposition, and no pretext left for a continuance of the practice, the British government was formally assured of the readiness of the United States to enter into an arrangement, such as could not be rejected, if the recovery of British subjects were the real and sole object. The communication passed without effect."

We return to the point maintained by the American government, in the correspondence to which we have referred. Independently, said they, of these obvious considerations (the same we have already presented) there is another, which covers the whole question. Your right, by your own confession, is not an absolute one. It yields to our right of sovereignty. You do not claim to come upon our soil, and there to seize your sailors. Where do you find the right to seize them in our ships, covered by our flag, which is as exclusive of your jurisdiction, except in certain prescribed cases in time, as the territory of the United States? If you suffer your citizens to escape, and to come under our sovereignty, your claim to their services must yield to our superior claim to national immunity. Like many other rights or pretensions in society, if this cannot be exercised, without violating the privileges of another party, it must be abandoned.

The British jurists of that day, who administered, and often made the maritime law, were endowed with sufficient subtlety to discover new principles to suit new circumstances, and her statesmen had sufficient firmness to adopt and maintain them. But we doubt, if in the whole progress of that warfare, between orders in council and imperial decrees, which so long vexed neutral commerce, and outraged the common sense of mankind, a bolder invasion was made into the regions of maritime metaphysics, than in the promulgation of that doctrine, which was to reconcile the exercise of this right of impressment, with those principles of public law, that had been too long and too clearly established to be direct-

ly controverted. Who was the discoverer of this, then *terra incognita* we know not; but its revelation was announced by great authority and from a high place. It is to be found in a declaration of the Prince Regent of Great Britain, dated July 9th 1813, made in answer to the manifesto of the American government, recapitulating the causes, which had driven the United States to war. And it is there gravely maintained that "His Royal Highness can never admit, that in the exercise of the undoubted and hitherto undisputed right of searching neutral merchant vessels in time of war (alluding to the ordinary right of search, recognized by the law of nations) the impressment of British seamen, when found therein, can be deemed any violation of a neutral flag. Neither can he (the Prince Regent) admit, that the taking such seamen from on board such vessels can be considered by any neutral state, as a hostile measure, or a justifiable cause of war."

And thus speaks the executive of England. The right to *enter* an American ship for the purpose of impressment is clearly disclaimed; but having entered for a lawful purpose, then the boarding officer has the right to take any British subjects he may find; that is to say, to seize every American sailor, and place him upon the deck of a British cruiser. We shall not go back to the history of the monstrous abuses, to which this pretension gave birth, and which drove the United States to war. They would have become a by-word among nations, had they tamely submitted to see their seamen dragged into this worst of slavery. But it is well, with regard to the future, to investigate the claims of the past. A seaman, on board an American ship, is protected by his national flag. No British officer can enter, for the purpose of tearing him from this natural asylum. But having entered for one object, he may execute another. Certain belligerent rights are given to him, and he may board all vessels upon the great highway of nations, in order to enforce them. And having done, or affected to do this, he may then turn round, and pervert his right of entry to a totally different object. He may violate the sovereignty of the neutral power, by giving effect, not to the code of international law, but to the mere municipal regulations of his own country; and under, the most arbitrary and offensive circumstances. No, all this is but the sophistry of power, determined to attain its object, and seeking to justify itself. There is no such right of conversion. No just claim to demand one thing, and to do another. The whole pretension shocks the common sense of the world.

Argument would be lost in its refutation. The analogy of the English law would lead the British government to a far different conclusion. In England, if a person has a right of entry for one purpose, and perverts it to another, he renders himself a trespasser *ab initio*. He finds convertible justification, by which his real object may be attained, while he covers himself with a professed one.

According to this right of conversion, when the British forces

entered the state of New York to burn the *Caroline*, having got within the American territory, for what they contended to be a lawful purpose, they might have then violated the national sovereignty, and seized all the persons they found, who had been born British subjects, and transported them into Canada. And why not have seized their American debtors, if they had any, or done any other act, which they might lawfully do at home, as they claim to enforce their municipal laws upon the vessels of the United States. This claim can only be supported upon the ground, that, these laws *ride over* those of the United States, wherever British power plants itself; even for the shortest period and for whatever purpose.

But another *high authority*, *the Times*, has recently laid down the same doctrine, more distinctly indeed, and quite *ex cathedra*, showing how rapidly these maritime pretensions gather strength from time and use. We cannot, at this moment, refer to the number which contains this dictum, but it must have been that of the sixth or seventh of January, and will be found in Galignani's Messenger of the tenth of January, extracted from the London Journal. After laying down the right of search for enemy's property and articles contraband of war, the *Times* continues, "It is also, we believe, confessed, that if in the course of search, we find the goods and persons of our enemies, such goods and persons may be made lawful prizes and prisoners; the law, however, being punctillious enough to require in the former instance, that the captors shall pay freight to the neutral carriers, of whose cargo they possess themselves. Now, during our wars with France, we exercised this uncontested and incontestible right against America and all the rest of the world, with this very unnatural corollary, (!) that as we might take the persons of the king's enemies (a right given by the law of nations) we might take the persons of the king's subjects, who had deserted their duty (meaning thereby, all speaking the English language) and were serving in foreign ships, (a right, totally unknown to, and unrecognised by the law of nations.) We shall continue our quotations from the *Times*, because nothing, we could say, would more forcibly describe the intolerable abuses of this pretension, and because, from the position and character of that journal, we have the best assurance, that those abuses are not exaggerated.

"In the practical enforcement, however, of this right or wrong, for on that point it is not now necessary to pronounce, the searching party being, from the nature of the case, the strongest, and moreover, *ordinarily speaking*, *persons of summary habits*, were apt to be somewhat *arbitrary* in their judgments of who was American and who was English; 'when they doubted they took the trick,' at least, so thought and said the Americans, and any one may remember, that, once taken and lodged in an English man of war, by right or by wrong, it was not a very easy matter to get out of it; and accordingly the American had to stay, with just as good

a chance of being cut off by a French cannon ball, before he could get his right again, as any of his English fellow sailors." We pardon the frivolty of manner, with which this grave subject is treated, in consideration of the frankness of the journal, in the open avowal of a principle which cannot fail to excite general reprobation, now the unnatural excitement of war has passed away.

A nation, which should tamely submit to such pretensions, would merit, as it would surely receive, the contumely of the world.

The *Times* adds, "that this dispute (of impressment) now sleeps, though it will have to be revived, at latest, on the next occasion, when we find ourselves invested by a war with the right, of which it is the consequence; *and indeed, it might be raised on the contemplated treaty*, giving a mutual right of search for the prevention of the slave trade, unless provided for, as it easily might and probably would be by special articles."

But here is the true key to much of the reluctance of the American government to become a party to an arrangement, which shall add to the category of the right of search; whether it is likewise the key to the pertinacity, with which the British government presses this matter, we do not presume to judge. Until now, the right of search has been a belligerent right, belonging only to a state of war * * * Here is the first formal claim to exercise it in time of peace. Impressment, is a municipal right, depending, say the English jurists, upon the mutual relation of allegiance and protection, and the duties which these reciprocally create. Ordinarily, it is exercised in time of war, only, but the government might authorise its exercise at all times, as the conscription is operative, as well in peace as war; and surely, many cases may occur, where its exercise might be necessary to man a fleet, before hostilities were actually declared, but while they were considered impending. Under such circumstances, this new right of search, bringing a British boarding officer legally on board an American ship, for a defined object, would enable him very conveniently, after satisfying himself she neither sought nor contained slaves, to seize her crew and reduce them to a worse than African bondage; because, to all their other miseries might be added, the obligation to fight against the flag of their own country.

The *Scotsman* is not less frank than the *Times;* "the object of the one." says the former journal, alluding to the right of search as heretofore practiced, "was to discover British sailors in American vessels, and practically gave our naval officers a power to impress seamen from the ships of another state."

So, having already maintained, under various vicissitudes, the right to seize American sailors, in time of war, as a consequence of her belligerent right of search, if the present pretension is established, Great Britain can then seize them in time of peace, as a consequence of her *pacific* right of search, called *visitation*, and thus the marine of the United States will be an inexhaustible fountain, whence in peace and war, she can seek her force.

But it may be said, and indeed the suggestion as we have seen, is in the *Times*, that it is in the power of the American government to frame a convention, which shall exclude this process of impressment, and therefore fear of its occurrence ought not to prevent the adoption of this check to an odious traffic. To this suggestion the answer is easy. The United States can enter into no stipulation, which can be tortured into a recognition of this doctrine of impressment. They cannot provide for its restriction nor regulation. They can only accept a general declaration from the British government, that their flag shall protect their seamen, at all times and under all circumstances; and there is little reason to hope, that the counsels of justice will so far prevail over those of interest, as to lead to such a measure.

Were it however adopted by the British government, as the regulation of its future conduct, it would be hailed in the United States as the harbinger of a brighter day; as the cause and the precursor of an indefinite peace, between two nations, having so many reasons for union and so few for separation.

In such an event, there would be little hazard in predicting, that a satisfactory arrangement might soon be made, by which the fullest co-operation of the United States would be obtained towards the suppression of the slave trade. The great difficulty being removed, a mutual spirit of conciliation would soon do the rest. But till then, the United States cannot, in any arrangement giving reciprocally the right of search, with a professed view to the extinction of the slave trade, admit a stipulation, that the doctrine of constructive entrance should not apply and that their seamen should be safe from seizure. Such a stipulation would soon be construed into an admission of this claim, under other circumstances, and to this, the American government and people will never submit. With them, it is a question of life and death. They went to war to oppose it, thirty years ago, when comparatively young and weak. And now, after having advanced in all the elements of power with a rapidity unknown in human history, they will not be wanting to their duties and honor in the day of trial. An American, at home or in Europe, may safely predict, that the first man impressed from a ship of his country, and detained, with an avowal of the right by order of the British government, will be the signal of war. A war too, which will be long, bitter and accompanied, it may be, with many vicissitudes. For no citizen of the United States can shut his eyes to the power of Great Britain, nor to the gallantry of her fleets and armies. But twice the Republic has come out honorably from a similar contest, and with a just cause she would again hope for success. At any rate, she would try.

In the preceding discussion, we have spoken generally of the right of search, without being led aside by any distinction, founded upon the purposes, real or avowed, of those who exercise it. We have done so, because so far as regards the most obnoxious

consequences to the United States, the liability of their seamen to impressment, it is obvious, and so indeed says the *Times*, that the exercise of this pretension, though not forming a just cause of entry, yet being its necessary result, it is perfectly immaterial, in its practical operation, whether the *Naval Judge*, "clothed with a little brief authority" but deciding summarily upon human liberty, boards the peaceful trader to ascertain her national character, or to enquire into the objects of her voyage. But besides this fundamental objection, it is evident, that no vessel can be liable to examination without some hinderance. That in all such cases, there may be gross abuses, and that in many, these abuses will occur. The boarding officer will judge if her papers are regular or if they are simulated; and if the accidents of the voyage and nature and appearance of the cargo and equipment confirm these papers or render them suspicious. Here is latitude enough for arbitrary vexation, and for interruptions, which may drive an otherwise profitable commerce into less troubled channels. And these considerations are abundantly powerful to justify the United States in refusing their consent, both to the conventional arrangement proposed for the right of search, to ascertain the objects of the voyage, and to the new doctrine, now first promulgated, of a right of search to ascertain, if the proofs of the vessel's nationality are sufficient to justify her title to the flag she bears.

We cannot better describe the little difference, in its practical operation, which would be found between the right of search to ascertain the true character of a vessel, and the right of search to ascertain the object of her voyage, than we find it done to our hands in the London *Sun*. One may be called a search and the other a visit, but both will be found equally *vexatious visitations*. The passage of the *Sun* is striking, and we shall quote it:

"The Americans may very properly object to our right of search, and may still have a great inclination to suppress the slave trade; but of the two evils, we have no doubt, but the Americans would prefer the eternal existence of the slave trade, to allowing their ships to be overhauled by our men of war. If they sanction the examination, for the mere purpose of ascertaining, if a vessel bearing the American flag is *bona fide* an American vessel, they sanction a rigid examination of the vessel herself. The papers may be simulated. How is that to be proved? By examining the crew; by ascertaining, that the cargo of the vessel corresponds to the manifest; by tracing her route in the log book; in short by subjecting her to a complete search. If that be not done, papers will be at once produced, to correspond to the flag, and merely to prove that they do correspond, will be of no use whatever. The Americans are well aware of the insults and injuries they would subject themselves to, by admitting this claim to visit their ships, and the *Morning Chronicle* does them egregious injustice, when it represents their resistance to that claim as *grounded in unrighteousness*."

The correspondence, with the British Secretaries of State for Foreign Affairs, just published by the American government, comes marvellously in support of the remarks of the *Sun*, though received since those remarks were written. It gives to them almost the character of prophecy. The search of five American vessels is complained of by the American minister, the *Douglass*, the *Iago*, the *Hero*, the *Mary* and the *Susan*. And in four of these cases, serious complaints are also made, that the crews were treated with indignity, and the cargoes overhauled and injured, and various articles taken away. As Lord Palmerston in his answer to Mr. Stevenson gives a summary of the complaints of that gentleman, in the case of one of these vessels, we shall quote the passage, as an illustration of the practical effects of this new claim, not having, unfortunately, Mr. Stevenson's letter on this subject, within reach. And we embrace with pleasure this opportunity of tendering our thanks to that able American Representative for the spirit, ability and dignity with which he maintained the rights of his country, during the arduous correspondence he carried on with Lord Palmerston and Lord Aberdeen. But to the summary. "In these two communications from Mr. Stevenson," says Lord Palmerston, "it is stated, that on the 21st of October 1839, Lieut. Seagram boarded the *Douglass*, while she was pursuing her voyage, on the coast of Africa, examined the ship's papers, and the passengers' passports, broke open the hatches, hauled down the American flag, and seized the vessel as a slaver; that he kept possesssion of her during eight days; namely, from the 21st of October, to the 29th of the same month; that the officers and men of the *Douglass* became ill from exposure to the sun, and that in consequence, three of them died, and the Captain is yet in ill health." It appears by another letter from Lord Palmerston, that the boarding crew was charged with consuming the stores and provisions of the *Douglass*.

And in a third letter from Lord Palmerston, which relates to the *Mary*, the character of the occurrences on board, may be judged by this remark, "proceedings which, in Mr. Stevenson's opinion, seem to want nothing to give them the character of a most flagrant and daring outrage, and very little, if anything, to sink them into an act of open and direct piracy."

Lord Palmerston then proceeds to justify or deny all these charges, and there *they sleep the sleep of death.*

As to the ill treatment of the crews, and the free use of the provisions and stores of the vessels, and frequently the subtraction of more valuable articles (in one of these cases' money, a chronometer and a watch are said to have disappeared) all this is but an old story in the history of vessels, boarding and boarded as we have already had occasion to observe. How indeed can it be otherwise in the constitution of human nature, and in the position of the parties? There is no check for the present, no responsibility for the future. The most rigorous discipline and the best disposition could not prevent abuse, where a party of sailors enter the

vessel of another nation, in fact as masters; parade the crew, examine the papers, break up the hatches, overhaul the cargo, and feel themselve at free quarters, almost in an enemy's country. And when the disposition of the officers is bad, and the discipline lax, all these evils are fearfully augmented. In the catalogue of naval wrongs, endured by the United States, during the long period of belligerent opression, to which we have referred, the injuries and abuses inflicted by boarding vessels figure in the first rank. What will they be hereafter, when this doctrine of universal search, under the guise of an inquiry into the nationality of vessels, becomes consecrated by time and usage, and is exercised, as well in peace as in war?

But after all, what is this distinction, which Lord Palmerston and Lord Aberdeen have discovered, and which is to give to British officers the right, in a time of profound peace, to enter and search American ships? We are distinctly told by both these statesmen, in their correspondence with the American minister, that they do not assert this claim of search, with a view to ascertain the objects of a voyage, and to seize the vessel, if found engaged in the slave trade. Both admit in terms, that her American character being once established, her cargo, whether men or merchandize, is beyond the reach of the armed cruiser; and that she must be permitted to prosecute her voyage. however nefarious its object may be.

But both equally contend, that the flag at the mast head, or the piece of *bunting*, as Lord Palmerston rather contemptuously styles this emblem of sovereignty, furnishes no evidence of national character, and shall furnish no protection against the entrance of British force. That they have a right to board all vessels upon the ocean, examine their papers, and satisfy themselves respecting their nationality. Lord Aberdeen, indeed, consoles the government of the United States by the assurance, that their vessels are not entered as *their vessels.* "Nor is it as American, that such vessels are ever visited." Poor consolation this. *If Tom is knocked down in the streets, it is little comfort to him to be told, I did not knock you down as Tom, I knocked you down as Jack.* The answer to all such pretensions is very simple, and cannot have escaped the sagacity of the British statesmen who have resorted to this strange process of justification. You commit the act at your own hazard. If you enter a ship or knock down a man, believing the ship or man is not what appearances indicate, and your suspicions being correct, if the law, international in one case, national in the other, gives you the right to use this violence, then you may avow the act, and justify it. But if you err in these premises, you are responsible for the consequences.

The municipal law of every country is filled with illustrations of this principle. It is common sense, applied to the affairs of men in their social relations, as members of an organized community. Applied to the affairs of nations, in their commercial inter-

course with one another, upon the ocean, it is the same common sense, then called public law. If a father or master meet his son or servant, he has a right to examine him, to ascertain if he is violating his orders. This we may call the *visitation of persons.* The right cannot be denied. Now, the son or servant may disguise himself, and assume the appearance and dress of the son or servant of a neighbor, it may be his livery. But does this possibility of abuse give to the superior the right to stop in the streets all persons he may choose to suspect, with or without cause, to be his son or servant? and not even violating the law of the country, but his own domestic law! Certainly not. If he examine forcibly, he does so at his peril. Borne out by the result, he is but in the exercise of his right. Deceived, he is a trespasser and responsible for his conduct.

We consider it unnecessary to pursue these illustrations farther. It would be but a work of supererogation.

What then is the process, by which this new principle is attempted to be justified and maintained? Lord Palmerston thus lays down the doctrine, which is henceforth to become a part of the great maritime law. *The United States flag or bunting, as his lordship calls it, shall exempt no vessel (whether American or not) from search,* except "when that vessel is provided with papers, entitling her to wear that flag, and proving her to be United States property, *and navigated according to law.*" And with a view to ascertain if she is entitled to the flag she bears, and if she is sailing *according to law,* a right of entry is claimed for every British cruiser into every American vessel, wherever they may meet. And this right of entry is called not a *search, but a visit.*

Lord Palmerston, it will be remarked, lays down as a part of the principle, that the vessel must be *sailing according to law,* that is, for a purpose not prohibited by law, and Lord Aberdeen, who shows more regard for *bunting* than Lord Palmerston, concedes, that, "doubtless the flag is *prima facia* evidence of the nationality of the vessel." A strange designation this, by the by, for a national pavillion, and we had almost said a profane one, to be applied by an English statesman, the minister of a country whose *meteor flag* is associated with so many glorious recollections, and apostrophised in so much glorious poetry And after all, this emblem of sovereignty and accompaniment of victory is but a piece of *bunting!* Alas! for the prestige of great names, when reduced to this matter of fact standard!

It will not be denied, that this is the first solemn occasion, upon which this pretension has been put forth to the world. No elementary writer has advanced it; no jurist has asserted it; no judge has ruled it. The universal exemption of all vessels in time of peace, from "search or visitation," the very words, as we have seen of Lord Stowell, has heretofore been an uncontested and incontestable principle of the law of nations; and he added the authority of his decision to the opinions of his predecessors, the commenta-

tors upon the great code of maritime law. When therefore the two British statesmen, who have assumed, or upon whom has fallen, the task of interpolating this new principle into that code, or as the *Times* would express it, who are *working the way for the new law*, undertake to justify this pretension, by argument, preparatory to its being maintained by force, we may fairly call upon them to establish their position by undeniable proofs, or by the clearest illustrations. The burthen of discussion is cast upon them; while the nations of the earth, at the same time judges and parties, are watching the progress of the controversy, anxious, it may be, to see, if this new *step*, as the *Times* may well term it, is to be attended with a new *struggle*, and if both are to be gained, as so many have been gained before them.

In carefully analyzing the correspondence, the arguments in support of this claim may be briefly summed up in these. Without it, flags may be sometimes abused. Without it, English cruisers may sometimes be prevented from boarding their own vessels, and thus the municipal laws of England may be violated. Without it, the treaty stipulations for the suppression of the slave trade cannot be so well executed, as with it. And the traditions of the British navy, and Lord Aberdeen believes, of other navies, are in favor of its assertion. This is a brief summary of the defence of this measure.

As to what may be termed the quarter deck law, we shall dismiss it with a very cursory examination. Mr. Stevenson calls in question the exactitude of the fact, at any rate to the extent, to which it must reach, in order to support such a claim as this. That vessels may have been overhauled and entered in time of peace, under peculiar circumstances, we do not doubt. But it is evident, that this practice has never prevailed in any considerable degree, most certainly not sufficiently so, to render it authoritative, as otherwise it would have given rise to examination and consideration among the elementary writers, and to discussion among the governments, which, from time to time, must have been affected by it. No trace of this appears, and the conclusion is inevitable, that its use has never been established, nor its abuse sufficiently prevalent nor serious, to render it the subject of diplomatic intervention. If Great Britain had, as she has not, in the exercise of her naval strength, pushed this usage beyond the point, we have indicated, certainly it would be with a bad grace, she could claim, that her own violence should be written down in the law of nations, and constitute the rule for their future government. We go farther; vessels will no doubt be hereafter spoken and entered, and no one will complain, because no indignity will be intended, nor will any injury be done. Strictly speaking, a trespass may be committed, but the matter will pass off, without exciting the least sensation, either among the parties or their governments. How different this is, from a claim to enter and search all ships, at all times, and in all places, we leave to the common sense of mankind to judge. We say in *all*

places, because, though one-half only of the Atlantic ocean is *tabooed* (as the South sea islanders express it) at the present moment, yet the same power, which has laid this interdict upon a part of one of the mightiest works of God, may extend it, as soon as its interests dictate, from pole to pole, and from east to west. If that is not already done, it is not, that the principle is not sufficiently elastic to cover such a space, but only that the *time of harvest has not yet come.* We are aware of our offence against the canons of criticism in the metaphor, but we may be pardoned the trespass, in consequence of the force of the illustration. With respect to the abuse, to which this claim of immunity, made by the United States for their vessels, may be liable, it is not difficult to show how greatly it has been exaggerated. This seems to be the favorite argument of Lord Palmerston, and is repeated, under a somewhat different view, by Lord Aberdeen. Both these statesmen appear to think, that the United States claim a perfect immunity for all vessels, bearing their flag, and as an illustration of the absurdity of such a pretension, Lord Aberdeen asks Mr. Stevenson, if he supposes the government of Great Britain would permit "British vessels and British capital to carry on, before the eyes of British officers, this detestable traffic, etc., by hoisting the American flag."

This conclusion is no corrollary from the premises laid down by the United States. They advance no such pretension. It is the immunity of their own *bona fide* vessels, they seek to secure. They do not deny to the cruisers of all the powers of the earth, the right to enter and search each the vessels of their own country, and of every other country, which may concede the privilege; though the flag of the United States may fly at all their mast heads. But they do deny the right of any such cruiser to search *their* vessels, and here lies the *root* of the whole matter. Certainly, if a British or French frigate encounters a vessel at sea, which is most assuredly a British or a French vessel, endeavoring to conceal her nationality, under the American flag, such frigate is justified in boarding her, and in disposing of her, as the laws of her country may provide. But this is done at the risk of the boarding ship. If the result proves, that the suspicion was well founded, then the commanding officer will be scathless. He will have done his duty to his own government, and no injury to another. But if he has suffered himself to be deceived, then he has violated the rights of a foreign power, and his sovereign must be responsible for the consequences. He may still have done his duty to his own government. That will depend upon the strength of the evidence, upon which he acted. But he has committed an injury against another, and for that injury, atonement may be demanded. But here we come to the practical operation of these general principles, and it is that branch of the subject alone, which is worthy serious consideration.

The two British statesmen attempt to support their position by pushing principles to their extremes. This may do in the schools,

but its place is not in active life, and least of all in the affairs of nations. A British officer meets a vessel bearing an American flag, but which he has the strongest reasons to suspect to be British, and engaged in the slave trade. He boards her, conducts himself with perfect propriety, ascertains his error, and retires, without committing any injury. He is a trespasser, but no government would ever think of complaining in such a case. A perpetual right to stop, to search, and to seize, is one thing. A casual act of trespass, conceded to be such, excused by peculiar circumstances, and immediately acknowledged and atoned for, is another. The latter may be pardoned. The former is intolerable. The commander of the boarding vessel is precisely in the condition of a sheriff's officer, who with a writ against A. arrests B. Now on a trial in an action of trespass, which B. might institute for this assault and battery, what would be the measure of damages, which an intelligent jury would apply to the case? They would adopt precisely the same rule, we have already laid down, in the case of the commander. If the officer had strong reasons to mistake the identity of B., and to suppose he was A., and if he had conducted himself with perfect propriety, and had really committed no injury, he would be dismissed with nominal damages. Damages, which, while they asserted the great principle of liberty, would yet be perfectly valueless in their amount, leaving the ill-advised complainant to pay the costs. Such is the illustration of our maritime subject. In this manner the principle is saved, and flagrant abuses prevented. And why the naked principle is incalculably valuable to the United States, is obvious. Upon it turns the claim of impressment. The exercise of that claim, as we have seen, is the consequence of a legal right of entry. So long as this entry is illegal, so long the American seamen are, by British confession, safe from British power. We may illustrate this principle still farther, and it is well to do so, because Lord Aberdeen pushes the immunity, even to the protection of piracy; and some of the English journals have expressed a very patriotic fear of that result. Let us examine this matter. The cruiser of a civilized power approaches a region, where a pirate is known to have recently been committing depredations. His appearance is described, and he is anxiously watched. A vessel with the flag of the United States heaves in sight, and she bears a great resemblance to the corsair. She is entered, and the mistake is discovered. The act would be pardoned; and especially, as the crime is proscribed by the law of nations; a law which all powers should support and enforce; and it would not be difficult to suppose a case, where the public ship of a nation might be attacked, and under such strong presumption of her being a pirate, as to excuse, though not to justify, the aggression. When piracy was prevalent in the West Indies, some years since, the smaller vessels of the American squadron, employed in its suppression, were often disguised to deceive the pirates. If one of them had been mistaken by a French or British frigate for

a piratical cruiser, she would have been attacked; but the matter would have been amicably arranged, as was the controversy, respecting the action between the American frigate the *President* and the British sloop of war the *Little Belt*, which occurred in profound peace, but was the result of mutual misunderstanding. Now, Lord Palmerston and Lord Aberdeen do not claim the right, in time of peace, under any circumstances, to search a vessel of war, in order to ascertain her nationality. Here the *bunting* rides inviolate. But does it follow, that because a pirate hoists the flag of a Christian power, and assumes the appearance of one of her armed ships, he is therefore beyond the reach of his pursuers? Or that all the French vessels of war upon the ocean may be searched by a British ship, because the latter chooses to *suspect* they are pirates? Such pretensions would be absurd. The public vessel is inviolable in principle, by universal consent, as the private vessel was, till this pretension arose. The immunity of the one has not prevented the suppression of piracy, nor would the immunity of the other prevent the suppression of the slave trade. Neither ought to be forcibly entered by a foreign power; but if their guise is assumed, and in such a manner, as to deceive the honest cruiser, circumstances might occur to justify him in attacking the one, and in entering the other.

But pursuing the analogy, and pushing the principle, as Lord Palmerston pushes it, it is evident, that if the possible abuse of their flag, for the purpose, among other things, of carrying on the slave trade, is a proof that the merchant vessels of the United States may be stopped and searched; then their armed ships may be also stopped and searched, or every corsair who may in like manner hoist their flag, may roam the ocean untouched. We leave the dilemma, where the argument originated. With our views, there is no difficulty. These, we have sufficiently explained.

Piracy has been put down, without any violation of the freedom of the seas, or of the independence of nations. The slave trade may be put down also, with the same sacred regard to those great principles. If occasional trespasses are committed, in attaining the one object or the other, let these be judged, as they arise. *Sufficient unto the day is the evil thereof.* Let violence not be encouraged and shielded in advance, and one of the best works of man, the *code of opinion*, by which the strong is restrained, and the weak protected upon the ocean, be broken up, and its fragments scattered to the wind.

We come now to the consideration of this principle, as the British statesmen lay it down, and more particularly in its application to the slave trade. We have seen, that Lord Palmerston, who certainly expresses himself less guardedly than Lord Aberdeen, qualifies his general *postulatum*, concerning the search of the vessels of the United States, by this limitation, that there must be *circumstances justifying the suspicion, that they are not American property*, and that their voyages are *illegal*. Lord Aberdeen goes

farther. He claims no right of search, "except under the most grave suspicions and well founded doubts of the genuineness of its (the vessel's) character." And he too, requires, that the object of the vessel should be "*illegal.*"

The most grave suspicions and well founded doubts of what, Lord Aberdeen? Of violating your municipal laws? If that proposition is meant and can be maintained, then England is much nearer universal domination upon the ocean, than the most jealous observer of her maritime "*steps*" has ventured even to insinuate. She has only, by statutory provision, to declare, as she already declares in principle, that the employment of her native born subjects, in the American marine, military or commercial, is illegal; and she can then enter the ships of the United States, and seize their crews, without resorting to the sophism, (we speak as a logician, not offensively,) which actually casts an air of ridicule, upon this grave question, and by which the true object is attained, under a pretended one.

She has only to declare piratical the transportation of the merchandise of France, as she has declared piratical the slave trade, and then every French ship sailing the ocean, and every other one indeed, may be stopped and searched, to ascertain, if they carry the wines of Bordeaux, the silks of Lyons, or the rich and elegant manufactured articles of Paris. From such a search, to seizure and condemnation is but another *step;* and the tri-colored *bunting* of France, and the striped bunting of the American Union, might disappear from the face of the seas.

Let no man say, that such things will not happen. Upon this subject we can no more assert what is probable, than we can predict what will happen. No *step* in this onward progress can be more irreconcileable with common right and common sense, than was the paper blockade of half Europe, without even the pretence that this interdict was supported by an armed vessel, if it were but a gun-boat, to watch one hundredth part of the coast, thus pronounced to be hermetically closed.

But what constitutes this *illegality,* we are no where distinctly told. Indeed, the whole reasoning of Lord Aberdeen, upon this branch of the subject, is marked with a confusion, certainly not the characteristic of that accomplished statesman, but the result of the position, he felt it his duty to take. He says in one part of his dispatch, "that the present happy concurrence of the States of Christendom (Qu. some of the states of Europe?) in this great object, not merely justifies, but renders indispensable the right now claimed and exercised by the British government." This, it will be observed, was written before the conclusion of the late treaty, between five of the European powers, upon this subject, and therefore has relation only to the previous isolated treaties; though that circumstance in our view, whatever it may do in that of Lord Aberdeen, changes nothing in the rights of the parties to this controversy. That *all* the powers of Christendom have not conceded

this right of search, will not be disputed; for we suppose the United States may fairly claim to belong to that great brotherhood of nations. Is it possible Lord Aberdeen means all his words clearly express? Will he openly assume the principle, that the concurrence of some of the powers of Europe, great or small, in a measure, even when avowedly and specifically confined to themselves, immediately and *ipso facto*, changes the law of nations, and sanctifies the principles of the new measure? If some future Napoleon should arise, and by a general continental convention, attempt to exclude England from the markets of the world, would this act of violence become legal? Would it impose upon that country the moral duty of submission, because the "*happy concurrence of some of the States of Christendom in the great object*," had not only *legalized*, but had rendered the process, by which their decree was to be enforced, not merely *justifiable, but indispensable?* This is no reasoning for the nineteenth century, and we can no longer occupy ourselves with it.

If the right of search is here placed, as we see, upon the obligation created by the partial treaties for the suppression of the slave trade, there are passages in the dispatches of both Lord Palmerston and Lord Aberdeen, where it is placed upon the municipal law of England. These are to be found, where Lord Aberdeen invokes the necessity of examining American ships, to ascertain, if they are not "British ships with British capital," carrying on a traffic "which the law (the municipal law of England) has declared to be piracy." And Lord Palmerston says, that without this right of searching American vessels, "even the laws of England might be set at defiance by her own subjects." And so they may be evaded in a thousand ways, and have been evaded by means, furnished by ships both English and foreign. And why confine this claim of search to the evasion of the laws, respecting the slave trade? Why not extend it to all cases, which may happen, and stop and seize upon the ocean all vessels, suspected or pretended to be suspected, of aiding in such evasion? And why should not a French cruiser overhaul and search any merchant man, foreign as well as French, which, it may be pretended, has on board a young conscript, fleeing from the conscription? This branch of the discussion has already extended too far. We do not believe it is necessary for any intelligent reader, that we should farther push the refutation of the pretension, that a British boarding crew may enter any American ship she meets, with a view to give effect to the British laws. That time may come, and perhaps will come, if this *step* is gained. But before then, many strange events may come to pass.

But it will be seen also, that this illegality, which we are in search of, is created, not only by treaty stipulations and municipal laws, but by the laws of nations. To this last authority the United States avow their entire submission, and what that ordains, they will cheerfully obey. Lord Aberdeen says that the fraudulent abuse of the American flag "constitutes that reasonable ground of

suspicion, which the law of nations requires in such a case." Let Lord Aberdeen put his finger upon that part of the law, which applies to "such a case," and all opposition to the pretensions of his country is at an end. But it is the fair provision, which is demanded, and not a substitute, created by a false analogy. This doctrine is not to be supported, by transferring to this subject principles and practices, applicable only to a state of war, and to acts, which are then "illegal," by the unanimous consent of mankind.

But after all, supposing the law to be as laid down, that American vessels may be searched, because their voyages may be sometimes "illegal," what are the circumstances, which justify the exercise of this measure, agreeably to the British doctrine? We repeat the rule, as stated by Lord Aberdeen. No vessel bearing the American flag ought to be visited by a British cruiser, except "under the most grave suspicions, and well founded doubts of the genuineness of its character." What is the practical application of this rule? Why, American vessels are *visited*, in the language of Lord Aberdeen, "in certain latitudes and for a particular object." That is to say, their very appearance in "certain latitudes" is a "grave suspicion," and thence follows the entry, the detention, the search, and, it may be, the seizure! If this is not reversing the natural order of things, and casting the burden of proof upon the injured party, we confess our inability to understand the subject. This amounts to a complete blockade of the great southern ocean, from Rio Janeiro to the Bight of Benin. How long it may continue, and how much farther it may extend, we leave to history to tell.

There is a tendency in the communications of both the British Secretaries of State for Foreign Affairs, to consider the African slave trade as piracy. This point established, and all opposition to this claim of search, in cases *bona fide* suspicious, would cease. Lord Palmerston speaks of "slave trading pirates," and Lord Aberdeen of "piratical adventurers."

But this is loose language, except so far as it has reference to municipal laws. The slave trade is nefarious, unjustifiable, and ought every where to be proscribed, and rigorously punished. But it is one of that class of acts, whose criminality depends upon the laws of different countries. A nation or a combination of nations may call it piracy, and apply to their own citizens the punishment usually prescribed for that crime. But this change of names changes nothing in the nature of things, and piracy is now, by the law of nations, what it has been for ages past.

As to the *status* of slavery itself, it were idle to contend it is illegal by the common consent of mankind. It has existed since the earliest ages of the world, and there is probably no nation, ancient or modern, among whom it has not been known. By some, it has been abolished; and where it yet survives, we hope its condition has been meliorated. This is certainly true of the United States. A general disposition is gaining ground to improve the situation of

this unfortunate class of society. This is felt in the Southern states of the American confederacy, as well as elsewhere, and he who should judge of the treatment of the slaves in that region, by their treatment in the West India colonies, would do the Southern planter egregious injustice. The best proof of this assertion is the fact, disclosed by the statistical tables. published by the American government, that in some slave states the slaves increase faster than the white population; and another fact, not less significative, is the rate of their natural augmentation. This is found to be between twenty five and thirty per cent in each decennial period. A very respectable countryman, now here, in whose statement we place full confidence, has just informed us, he has examined the subject and finds, though there are more than fourteen millions of free white persons in the United States, and but two millions and a half of slaves, yet the number in the latter class, over one hundred years of age, is almost double that in the former.

We are no slaveholder. We never have been. We never shall be. We deprecate its existence in principle, and pray for its abolition everywhere, where this can be effected justly, and peaceably, and safely for both parties. But we would not carry fire, and devastation, and murder, and ruin into a peaceful community, to push on the accomplishment of the object. But, after having visited the three quarters of the old Continent, we say before God and the world, that we have seen far more, and more frightful misery, since we landed in Europe, *and we have not visited Ireland yet*, than in the United States. Whatever may be said, there is much of the patriarchal relation between the Southern planter and the slave. And as to the physical distress, which is seen in Europe, resulting from a want of food, and from exposure to a rigorous winter, without adequate clothing, we believe it to be so rare, as not to form a just element in the consideration of this matter. But the subject of the emancipation of two millions and a half of human beings, living among another population, of different race and color, and with different habits and feelings, is one of the gravest questions, which can submitted to society to solve. It can be safely left, only to those, who are to be so seriously affected by it; and there it is left by the Constitution of the United Staes. It is a matter, with which the General Government has no concern.

And so with respect to the slave trade. It is a traffic, which can be traced back to the time of Jacob, whose *son was sold into Egypt;* and down, in some form or other, during the successive ages, which have intervened, to the last century, when by treaty arrangements with Spain, England obtained, as a great commercial favor, the privilege of supplying the Spanish colonies with slaves,* and the present, when after many years of bitter opposi-

* The first article of the treaty of Madrid of 26th March, 1713, is thus conceived, whereas the *assiento*, which was formed with the Company Royal of Guinea, established in France to furnish negro slaves for the West Indies, has expired and the Queen of Great Britain wishing to enter into this commerce, and in her name the English Company, etc.

tion, the English Parliament voted the abolition of the slave trade; but when some of the greatest names* in England, were found in the minority. These Statesmen, by their votes not only pronounced the slave trade to be legal and expedient, but *moral* also, so far, as that consideration formed, at that time, a motive of legislative action. That it is illegal, by the great code of public law, no statesman, nor publicist, or well informed man will seriously contend. Thanks to the advancing opinions of the age, its atrocity is generally acknowledged, and the obligation of Christian States to extirpate it, almost everywhere felt and obeyed. But it is not permitted, in order to attain a great good, to commit a great evil. In order to break up this traffic, to break down the barriers, which centuries have been rearing, and by which the weak are everywhere protected against the strong, the peaceful against the warlike. The law of nations is but general opinion, illustrated by able jurists, and sanctified by time, and by universal acquiescence. Touch it rudely, and the whole fabric will disappear, leaving the nations of the world, in their mutual relations, as they existed in the most barbarous ages.

Most wisely and most impressively therefore, did Lord Stowell say, "No nation has the right to force their way, for the liberation of Africa, by trampling upon the independence of other States, on the pretence of an eminent good, by means, that are unlawful; or to press forward to a great principle, by breaking through other great principles, which stand in their way."

Words of deep wisdom and solemn warning; and lamentable is it, that their obligation has scarcely outlived the able and venerable judge, by whom they were pronounced. And above all is it to be deplored, that the first public practical disavowal of these sentiments should come from a country, whose law they were ruled to be.

We have already adverted to the opinion of the Duke of Wellington, in connexion with that of Lord Stowell. This we did from memory, but at the moment of writing this part of our remarks, we have been enabled to refer to a debate in the House of Lords in July 1839, where his sentiments are fully disclosed. With that spirit of frankness and sagacity, which are not the least eminent, among the qualities of that eminent man, he predicted the issue, to which this pretension must lead. He said, "the clause in question made it lawful to detain any vessels whatever, on suspicion, on the high seas, and demand their papers; and the per-

* In looking over Clarkson's History of the abolition of the slave trade, we find that the cabinet of Mr. Pitt was divided upon this subject, and that the sincerity of that distinguished man in the support of it was generally doubted. And Clarkson states that from the known sentiments of the King, the veto of the bill was feared.

Among the opponents, we find the Duke of Clarence, (afterwards William the Fourth,) who called the supporters of the bill, *fanatics* and *hypocrites*, Lords Thurlow, Rodney, Sheffield, Eldon, Saint Vincent, Liverpool, Sidmouth (who was Mr. Addington.) Hawksbury (who was M. Jenkinson.) Mr. Dundas, Colonel Tarleton, Major Scott, etc.

sons exercising such authority were moreover indemnified for all the consequences. Was it intended, that the vessels of any power in Europe might be searched, and afterwards allowed to proceed on their voyage, whether we had treaties with those powers or not? Such a law would be a perfect novelty in the legislation of this country, and the House ought to well pause before they adopted it."

Again, on the 15th August, the Duke remarked, "it was well known, that with the United States we had no convention; there were indeed engagements, made by diplomatic notes, but nothing went to show the least disposition on their part to permit the right *of detention and the search of papers;* and if there was one point, more to be avoided than another, it was that relating to the *visitation* of vessels, belonging to the Union. He warned government not to proceed, but rather to issue an order in council or a declaration of war."

We quote the remarks of Lord Brougham, because they are equally honorable to himself, to truth, and to the American Government. "It could not be disguised, that we were peculiarly situated, with respect to the United States; because we had not effected any treaty, conferring such right of search. It should be borne in mind, that the United States, at the very earliest period, they were enabled to do so by the federal union, had adopted the abolition of the slave trade, and were in fact the first to make it piracy, for any one of its subjects to carry it on. The government of the United States was not so strong as a monarchial government, nor had it such direct and powerful means of controlling its subjects." And he remarks with respect to the sale of American ships to persons carrying on the slave trade, "but the people might not after all be answerable for the purposes, to which they were devoted; not more so, certainly, than an English ship-builder, who sold vessels, constructed in his yard, which were afterwards despatched to the coast of Africa."

We shall not add a word to the authority of these high names. Their decisions need no commentary from us.

Keeping in view the preceding course of discussion, it is obvious, that upon the principles, heretofore received among mankind, if the United States should peremptorily refuse all co-operation, in any effort to put down the slave trade, they would be responsible only to the public opinion of nations, and to him, by whom nations rise and fall It would be but the consequence, says the London *Sun* "of our former proceedings, which have made it impossible for the Americans to admit this claim. By committing injustice on our own people, we have bred up our officers in arbitrary habits, which have made them arbitrary to other nations, and the consequences debar England from following out her humane wishes to suppress the slave trade."

But the United States refuse no such co-operation. They have interdicted, as we have seen, this trade to their citizens, and have provided exemplary punishments, for the transgressors. They

have, for many years, kept a squadron upon the coast of Africa, to aid in its suppression, and they are now making arrangements for its augmentation. We do not affect to deny, that a general right of search would assist the objects, which all the Christian powers are seeking to attain. It would be an additional means of detection; but such a right is not at all indispensable to success. Much has already been done, and the work is going on now. It would be greatly promoted, if the markets in countries to which slaves are yet transported, were closed to this traffic. If these unhappy victims of lawless violence could not be sold, they would not be bought. Let a general effort be made with the Spanish, Portuguese and Brazilian governments to induce them to act vigorously in this matter, by judicious municipal regulations, faithfully executed; and a powerful means of success will be put in motion, without "breaking down the great principles, which now stand in its way."

That the efforts to suppress the slave trade may be rendered successful, without the adoption of this obnoxious measure, is evident, from a suggestion in a London journal, which, with just feeling, seeks to avert the impending consequences of this claim of search. This journal proposes, that an officer of the British and American navies shall reciprocally sail in one of the cruisers of the respective nations, and that such officer shall exercise the right of search in the vessels of his own country, thus ascertaining their character and objects, and seizing them, when guilty, without any violation of the rights of sovereignty. We do not stop to examine this proposition; we merely allude to it, to show that in a spirit of accommodation, means may be found to reconcile all *avowed* objects, with national dignity and independence. Such a plan would possess one advantage. It would be truly reciprocal; whereas the proffered power to search is but the mockery of reciprocity towards the United States, whose institutions will permit impressment, as a means of manning their navy. While, therefore, the British officer enters to search and impress, and the American officer enters to search, the inequality is too glaring to need illustration.

But after all, what kind of philanthropy is that, which seeks not merely to put down the African slave trade, but to put it down by the employment of one means among many, and which means if persisted in, *as threatened*, will as surely involve two great nations in war, as to-morrow's sun will rise upon both? And who can tell the issue of such a war, not merely to the parties themselves, that we shall not touch, but to the civilized world? Who can tell the questions of maritime right, which will arise during its progress, and maritime wrongs, which will be inflicted? Who can tell how soon its sphere will be enlarged, and the oppressions of Africa be lost sight of, in the struggles of Europe and America.

It is strange indeed, but so it is, that one of the modes proposed for the liberation of the negro, from the traffic of his flesh and blood will necessarily lead to the bondage of the American seaman;

where his flesh and blood are not indeed sold, but where they are taken without price, and may be swept away by the cannon of his own country. "When they doubted, they took the trick." Words, which all Americans should grave upon their hearts. We may safely appeal to any generous Englishman and Frenchman, and ask, what would be their sensations, if told, "*Yes we do seize your citizens, we will seize them; when we doubt we take the trick,*" Let each answer for himself, and that answer will disclose the feelings of the Americans; for this *trick* it is a man, an American citizen. By and by, after *after law shall have worked its way far enough*, the *trick* may become a French citizen; and what sort of a struggle will come when that *step* is taken?

But should the United States yield to this claim, what security is there for them, or for nations, like them, interested in the freedom of the seas, that it would not be followed by another and another pretension, till the British flag rode triumphant over the waters of the earth? How far is to be pushed this crusade of benevolence, which would involve east and west in one calamity, in order to attain, in its own way, an object which must come, and that speedily? There are significant signs abroad, that this is but the commencement of a system, destined to a wide extension. Already the project has been publicly discussed in England, of putting a stop to the sale of its products. It has been supported in the journals, and advocated we believe, in parliament. The scheme has not yet ripened into a plan. But benevolence is sometimes *shrewd* as well as active, and the proposition, so far, is merely to interdict the sale of these products in England; yet who can tell how soon the question may enter in an improved form, into the maritime code of nations? It would be but another *step*, and though it might be accompanied by another *struggle*, leading to universal war, what cares the philanthropist for this? *Law would work its own way.* Slavery is wrong, as well as the slave trade. We cannot enter upon the territory of another nation, to suppress it. But we will seize its products upon the ocean. They shall become contraband of peace. No cotton, rice, coffee, sugar nor tobacco, not the product of free labor, shall be lawful freight. And thus the object just, the means must be just also.

But here we drop the discussion, leaving every reflecting man to draw his own conclusions. Most sincerely do we hope, that Lord Ashburton carries out, to the American Government some modified proposition, it can accept. But we freely confess, looking to the pretensions of both parties and knowing the feelings of our countrymen, that we do not see, upon what middle ground they can meet. Our fears are stronger than our hopes; and sad will be the day, when two such nations go to war. Even if England were clearly right, as in our opinion she is clearly wrong, she might forbear much, without any imputation upon her honor. She has won her way to distinction by a thousand feats in arms, and what is her better title to renown, by countless feats in peace.

Triumphs of genius, of skill, of industry and of enterprise, which have gained her a name, that the proudest may envy and that few can hope to equal. She has given birth to an empire in the west. An empire, whose extent and duration it passes human sagacity, even to conjecture. There are planted her laws, her language, her manners, her institutions. A thousand ties of interest unite these kindred people. Let England cherish this, as her most glorious work. But let her recollect too, that a spirit, equal to her own, animates the republic, and though she may be crushed, that she will not be dishonored.

The protest of General Cass met with the warmest approbation from his countrymen; nor could the administration, although differing in political views, withhold its acknowledgement of the signal service rendered by him at this eventful and unexpected exigency. The protest is truly patriotic and American in its sentiments. It excited the indignation of the English government and press. Its author was abused without stint in the public newspapers and in parliament. Its influence may be justly estimated by its effect upon those whose schemes it defeated.

The document which exerted so much influence upon the proceedings of great and powerful nations, was the following:

LEGATION OF THE UNITED STATES,

Paris, 13th February, 1842.

M. GUIZOT, *Minister of Foreign Affairs:*

SIR—The recent signature of a treaty, having for its object the suppression of the African slave trade, by five of the powers of Europe, and to which France is a party, is a fact of such general notoriety, that it may be assumed as the basis of any diplomatic representations which the subject may fairly require.

The United States, being no party to this treaty, have no right to inquire into the circumstances which have led to it, nor into the measures it proposes to adopt, except so far as they have reason to believe that their rights may be involved in the course of its execution.

Their own desire to put a stop to this traffic, is everywhere known, as well as the early and continued efforts they have adopted, to prevent their citizens from prosecuting it. They have been invited by the government of Great Britain to become a party to a treaty, which should regulate the action of the combined governments upon the subject. But, for reasons satisfactory to themselves, and, I believe, satisfactory to the world, they have declined this united action, and have chosen to pursue their own measures, and to act upon their own citizens, without subjecting these to any kind of foreign jurisdiction.

In a communication from Lord Palmerston, Her Brittanic Majesty's principal Secretary of State for Foreign Affairs, to Mr. Stevenson, the American Minister at London, dated 27th August, 1841, Lord Palmerston claims a right for Her Majesty's cruisers, and avows the intention of his government to exercise it, to search American vessels at sea in time of peace, with a view to ascertain their national character. He adds, that "this examination of papers of merchantmen suspected of being engaged in the slave trade, even though they hoist an United States' flag, is a proceeding which it is absolutely necessary that British cruisers employed in the suppression of the slave trade, should continue to practice," &c.

In a communication from the successor of Lord Palmerston, Lord Aberdeen, to Mr. Stevenson, dated 13th October, 1841, the views and determination announced in the first, are confirmed; and Lord Aberdeen thus states the ground upon which rests this pretension to search American vessels in time of peace: "But the undersigned must observe, that the present happy concurrence of the states of Christendom in this great object, (the suppression of the slave trade,) not merely justifies, but renders indispensable, the right now claimed and exercised by the British government;" that is to say, the right of entering and examining American vessels to ascertain their true nationality.

It is no part of my duty to offer any comments upon this pretension, nor upon the reasons advanced in support of it. And if it were, I should find the duty far better performed for me, than I could perform it for myself, in the annual message of the President of the United States to Congress, of 7th December, 1841. In that document will be found the views of the American government upon this subject, and it is there emphatically declared that, "However desirous the United States may be for the suppression of the slave trade, they cannot consent to interpolations into the maritime code, at the mere will or pleasure of other governments. We deny the right of any such interpolation to any one, or to all the nations of the earth, without our consent. We claim to have a voice in all amendments or alterations of that code; and when we are given to understand, as in this instance, by a foreign government, that its treaties with other nations cannot be executed without the establishment and enforcement of new principles of maritime police, we must employ a language neither of equivocal import, nor susceptible of misconstruction."

You will perceive, sir, by these extracts, that the British government has advanced a pretension which it asserts to be indispensable to the execution of its treaties for the suppression of the slave trade, and to which the President of the United States has declared that the American government will not submit. This claim of search, it will be observed, arising, as is asserted, out of existing obligations, has relation to the isolated treaties for the abolition of this traffic, which were in force at the date of the

communication of Lord Palmerston and of Lord Aberdeen. It is now known, that the combined treaty upon this subject, is more extensive in its operations, and more minute in some of the details of its execution, than the separate treaties with France which preceded it, and equally indefinite in the duration of its obligations.

Of course, measures which were not only "justifiable but indispensable" for the execution of the latter, will find equal justice and necessity in the obligations of the former.

With this previous declaration, made by one of the parties to this Quintuple Treaty, concerning its operations, the American government cannot shut their eyes to their true position. The moral effect which such an union of five great powers, two of which are eminently maritime, but three of which have perhaps never had a vessel engaged in that traffic, is calculated to produce upon the United States and upon other nations which, like them, may be indisposed to these combined movements, though it may be regretted, yet furnishes no just cause for complaint. But the subject assumes another aspect, when they are told by one of the parties, that their vessels are to be forcibly entered and examined, in order to carry into effect these stipulations. Certainly the American government does not believe that the high powers, contracting parties to this treaty, have any wish to compel the United States, by force, to adapt their measures to its provisions, or to adopt its stipulations. They have too much confidence in their sense of justice to fear any such result; and they will see with pleasure the prompt disavowal made by yourself, sir, in the name of your country, at the Tribune of the Chamber of Deputies, of any intentions of this nature. But were it otherwise, and were it possible, they might be deceived in this confident expectation, that would not alter in one tittle their course of action. Their duty would be the same, and the same would be their determination to fulfil it. They would prepare themselves—with apprehension indeed, but without dismay—with regret, but with firmness—for one of those desperate struggles, which have sometimes occurred in the history of the world, but where a just cause and the favor of Providence have given strength to comparative weakness, and enabled it to break down the pride of power.

But I have already said the United States do not fear that any such united attempt will be made upon their independence. What, however, they may reasonably fear, in what they do fear is, that in the execution of this treaty, measures will be taken which they must resist. How far the acts of one of the parties, putting its own construction upon its own duties and upon the obligations of its co-contractors, may involve these in any unlooked for consequences, either by the adoption of similar measures, or by their rejection, I do not presume to judge. Certain it is, however, that if the fact and the principle advanced by Lord Aberdeen are correct, that these treaties for the abolition of the slave trade cannot be executed without forcibly boarding American ships at sea in

time of peace, and that the obligations created by these confer not only the right thus to violate the American flag, but make this measure a duty, then it is also the duty of France to pursue the same course. Should she put this construction upon her obligations, it is obvious the United States must do to her as they will do to England, if she persists in this attack upon their independence. Should she not, it does not become me to investigate the nature of her position with respect to one of her associates, whose opinion concerning their relative duties wonld be so widely different from her own.

But I may express the hope, that the government of His Majesty, before ratifying this treaty, will examine maturely the pretensions asserted by one of the parties, and see how these can be reconciled, not only with the honor and interest of the United States, but with the received principles of the Great Maritime Code of nations. I may make this appeal with the more confidence, from the relations subsisting between France and the United States, from a community of interest in the liberty of the seas; from a community of opinion respecting the principles which guard it; and from a community in danger, should it ever be menaced by the ambition of any maritime power.

It appears to me, sir, that in asking the attention of His Majesty's government to the subject of the Quintuple Treaty, with a view to its reconsideration, I am requesting nothing on the part of the United States inconsistent with the duties of France to other powers.

If, during the course of the discussions upon this treaty, preparatory to the arrangement of its provisions, England had asserted to the other parties the pretensions she now asserts to the United States, as a necessary consequence of its obligation, I cannot be wrong in presuming that France would not have signed it, without guarding against this impending difficulty.

The views of England are now disclosed to you, fortunately before its ratification. And this change of circumstances may well justify the French government in interposing such a remedy as it may think is demanded by the grave interests involved in this question.

As to the treaties of 1831 and 1833, between France and Great Britain, for the suppression of the slave trade, I do not consider it my duty to advert to their stipulations. Their obligations upon the contracting parties, whatever they may be, are now complete; and it is for my government alone to determine what measures the United States ought to take to avert the consequences with which they are threatened by the construction which one of the parties has given to these instruments.

I have the honor to transmit herewith a copy of the message of the President of the United States to Congress, in December last, and of the annual documents which accompanied it. Among the latter will be found the correspondence between the British Secre-

taries of State and Mr. Stevenson, upon the subject herein referred to. From these you will learn the respective views of the American and British governments.

It is proper for me to add, that this communication has been made without any instructions from the United States. I have considered this case as one in which an American representative to a foreign power should act without awaiting the orders of his government. I have presumed, in the views I have submitted to you, that I express the feelings of the American government and people. If in this I have deceived myself, the responsibility will be mine. As soon as I can receive despatches from the United States, in answer to my communications, I shall be enabled to declare to you either that my conduct has been approved by the President, or that my mission is terminated.

I avail myself, &c. &c.

LEW. CASS, &c.

CHAPTER X.

Effect of the protest upon the action of the French government, respecting the Quintuple Treaty--The Ashburton Treaty--Proceedings of Gov. Cass, on receiving copy of treaty—His correspondence with Mr. Webster, Secretary of State.

The frankness and boldness of Gov. Cass, in laying this protest before the French government and people, while it aroused the anger of the British government, deterred her from pursuing her object in the manner she commenced. The French chamber of deputies having their attention awakened to an examination of the schemes of England's ministers, refused to become a party thereto. Anxious to retreat with some appearance of honor, and unwilling to appear to the world, altogether unsuccessful in her project, and wishing to impress nations with her sincerity and laudable motives, which suggested the Quintuple Treaty, England opened a negotiation with the United States, on the subject. A special minister was sent to this country with authority to adjust and definitely settle all matters of difference between the two countries. A treaty was made and concluded, and signed by Lord Ashburton, the British ambassador, and Daniel Webster, American Secretary of State. The President directed Mr. Webster, in communicating this treaty to Gen. Cass, in France, to call his attention particularly to the clauses relating to the suppression of the African slave trade. The provisions in regard to that subject, in its connection with the right of search, as claimed by Great Britain, did not meet the views of Gen. Cass; nor could he consistently approve of them, even so indirectly, as to retain his position at the court of St. Cloud. He considered that the omission to procure a renunciation of the offensive claim of the English government, while negotiations were pending upon the very subject, which formed the pretended basis of the claim, placed him in a false position, and rendered his situation unpleasant to him. Truly his conduct in denouncing the pretension; in arraying against it a powerful people

and government, and so preparing an easy and open path, for whoever might be charged with the management of subsequent negotiation, was approved by the Executive of his government; yet when the subject came to be an object of treaty arrangement, when it was clothed with the solemnity of law, to be known and obeyed by the nations of the world, it was of greater moment to him, who had stood forth alone, and with his single arm, kept back the stride of a powerful ministry, to supremacy on the great highway of the world, that his course should be approved by the entire treaty making power of his country, than that his action should rest upon the individual and ephemeral sanction of the President

Desiring no longer, under such circumstances, a further residence in France, as the representative of his country, he requested permission to return home. The President, acknowledging the loss to this country, by the withdrawal of Gen. Cass, from so important a mission at that crisis, reluctantly gave his official consent.

Gen. Cass, on receipt of a copy of the treaty, presented it to the governmeut of France, with an accompanying letter from Mr. Webster. Although disappointed at the omission of those stipulations, which he regarded as of paramount importance, his patriotism and pride for his country, would not allow the utterance of a word of dissent or regret to escape him, at a foreign court. But with his own government he felt his position to be different, and himself at liberty to express to his countrymen, his feelings and sentiments without reserve. Hence, arose the celebrated controversy between Gen. Cass and Mr. Webster, immediately preceding, and after the termination of the official relation of the former.

The letters of Gen Cass, which follow, contain a complete history and examination of the subject of controversy, and cannot fail to impress the reader with the conviction, that his position is truly American, in principle, and is sustained by a cogency of argument which cannot be controverted.

LEGATION OF THE UNITED STATES, *Paris, October* 3, 1842.

SIR: The last packet brought me your letter of August 29th, announcing the conclusion of a treaty with Great Britain, and accompanied by a copy of it, and the correspondence between the ministers charged with the negotiations, and directing me to make known to M. Guizot the sentiments of the American Government

upon that part of the treaty which provides for the co-operation of the United States in the efforts making to suppress the African slave trade. I thought I should best fulfil your intentions by communicating a copy, *in extenso*, of your letter. This I accordingly did yesterday. I trust I shall be able, before my departure, to transmit to you the acknowledgment of its receipt by M. Guizot.

In executing this duty, I felt too well what was due to my government and country to intimate any regret to a foreign power that some declaration had not preceded the treaty, or some stipulation accompanied it, by which the extraordinary pretension of Great Britain to search our ships, at all times and in all places, first put forth to the world by Lord Palmerston on the 27th August, 1841, and on the 13th October following, again peremptorily claimed as a right by Lord Aberdeen, would have been abrogated as equally incompatible with the laws of nations and with the independence of the United States. I confined myself, therefore to a simple communication of your letter.

But this reserve ceases when I address my own government, and, connected as I feel my official conduct and reputation with this question of the right of search, I am sure I shall find an excuse for what might otherwise be considered presumption, if, as one of the last acts of my official career, I submit to you, and through you to the President, the peculiar circumstances in which I am placed by the conclusion of this treaty, and by the communication of your letter to M. Guizot.

Before proceeding further, however, permit me to remark that no one rejoices more sincerely than I do at the termination of our difficulties with Great Britain, *so far as they are terminated.* That country and ours have so many moral and material interests involved in their intercourse, that their respective governments and inhabitants may well feel more than ordinary solicitude for the preservation of peace between these two great nations. Our past history, however, will be unprofitable if it do not teach us that unjust pretensions, affecting our rights and honor, are best met by being promptly repelled when first urged, and by being received in a spirit of resistance worthy the character of our people and of the great trust confided to us as the depositaries of the freest system of government which the world has yet witnessed.

I had the honor, in my letter of the 17th ultimo, to solicit permission to return to the United States. That letter was written the day a copy of the treaty reached Paris, and the remark which I then made to you, that "I could no longer be useful here," has been confirmed by subsequent reflection and by the receipt of your letter and of the correspondence accompanying it. I feel that I could no longer remain here honorably for myself or advantageously for our country.

In my letter to you of the 15th February last, transmitting a copy of my protest against the ratification of the quintuple treaty for the suppression of the African slave trade, I took the liberty of

suggesting the propriety of demanding from Lord Ashburton, previously to entering into any negotiation, a distinct renunciation of this claim to search our vessels. I thought then, as I do now, that this course was demanded by a just self-respect, and would be supported by that tribunal of public opinion which sustains our government when right and corrects it when wrong. The pretension itself, was one of the most flagrant outrages which could be aimed at an independent nation, and the mode of its enunciation was as coolly contemptuous as diplomatic ingenuity could suggest. We were told that, to the doctrine that American vessels were free from the search of foreign cruizers in time of peace, "the British government never could or would subscribe." And we were told, too, there was reason to expect that the United States would themselves become converts to the same opinion; and this expectation was founded on the hope that "they would cease to confound two things which are in their nature entirely different, and would look to things and not to words." And the very concluding paragraph of the British correspondence tells us, in effect, that we may take whatever course we please, but that England will adhere to this pretension to board our vessels when and where her cruizers may find them. A portion of this paragraph is equally significative and unceremonious. "It is for the American government," says Lord Aberdeen, "alone to determine what may be due to a just regard for their national dignity and national independence." I doubt if, in the wide range of modern diplomacy, a more obnoxious claim has been urged in a more obnoxious manner.

This claim, thus asserted and supported, was promptly met and firmly repelled by the President in his message at the commencement of the last session of Congress; and in your letter to me, approving the course I had adopted in relation to the question of the ratification by France of the quintuple treaty, you consider the principles of that message as the established policy of the government. Under these circumstances of the assertion and denial of this new claim of maritime police, the eyes of Europe were upon these two great naval powers, one of which had advanced a pretension, and avowed her determination to enforce it, which might at any moment bring them into collision. So far our national dignity was uncompromited.

But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Till then, we had executed our own laws in our own way. But yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated, in a solemn treaty, that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose. Certainly, a laudable desire to terminate this horrible man-stealing and man-selling, may well justify us in going further, in changing one of the fundamental principles of our policy, in

order to effect this object, than we would go to effect any other. It is so much more a question of feeling than of reasoning, that we can hardly be wrong in yielding to that impulse, which leads us to desire to unite our efforts with those of other nations for the protection of the most sacred human rights. But while making so important a concession to the renewed application of England, it seems to me we might well have said to her, "before we treat upon this matter, there is a preliminary question connected with it, which must be settled. We will do no act which may, by any possibility, appear to be a recognition of your claim to search our vessels. That claim has arisen out of this very subject, or at any rate, this subject has been the pretext for its assertion, and if we now negotiate upon it, and our concurrence is yielded, you must relinquish, as solemnly as you have announced, this most offensive pretension. If this is not done, by now making a conventional arrangement with you, and leaving you free to take your own course, we shall, in effect, abandon the ground we have assumed, and with it our rights and honor."

In carefully looking at the seventh and eighth articles of the treaty, providing for our co-operation in the measures for the suppression of this traffic, I do not see that they change, in the slightest degree, the pre-existing right claimed by Great Britain to arrest and search our vessels. That claim, as advanced both by Lord Palmerston and Lord Aberdeen, rested on the assumption that the treaties between England and other European powers upon this subject, could not be executed without its exercise, and that the happy concurrence of these powers not only justified this exercise, but rendered it indispensable. By the recent treaty, we are to keep a squadron upon the coast of Africa. We have kept one there for years, during the whole term, indeed, of these efforts to put a stop to this most iniquitous commerce. The effect of the treaty is, therefore, to render it obligatory upon us by a convention to do what we have long done voluntarily; to place our municipal laws, in some measure, beyond the reach of Congress; and to increase the strength of the squadron employed on this duty. But if a British cruiser meet a vessel bearing the American flag, where there is no American ship of war to examine her, it is obvious, that it is quite as indispensable and justifiable, that the cruiser should search this vessel to ascertain her nationality, since the conclusion of the treaty as it was before. The mutual rights of the parties are in this respect wholly untouched; their pretensions exist in full force; and what they could do prior to this arrangement they may now do; for though they have respectively sanctioned the employment of a force to give effect "to the laws, rights, and obligations of the two countries," yet they have not prohibited the use of any other measure which either party may be disposed to

It is unnecessary to push these considerations further; and in carrying them thus far, I have found the task an unpleasant one. Nothing but justice to myself could have induced me to do it. I

could not clearly explain my position here, without this recapitulation. My protest of 13th February distinctly asserted that the United States would resist the pretensions of England to search our vessels. I avowed, at the same time, that this was but my personal declaration, liable to be confirmed or disavowed by my government. I now find a treaty has been concluded between Great Britain and the United States, which provides for the co-operation of the latter in efforts to abolish the slave trade, but which contains no renunciation by the former of the extraordinary pretension, resulting, as she said, from the exigencies of these very efforts, and which pretension I felt it my duty to denounce to the French government. In all this, I presume to offer no further judgment than as I am personally affected by the course of the proceedings; and I feel they have placed me in a false position, whence I cannot escape but by returning home with the least possible delay. I trust, therefore, that the President will have felt no hesitation in granting me the permission which I asked for.

I am, sir, very respectfully, your obedient servant,

LEW. CASS.

Hon DANIEL WEBSTER,
Secretary of State, Washington.

NEW-YORK, *December* 11th, 1843.

SIR: Upon my arrival here yesterday, the duplicate of your letter of November 11th was delivered to me. I embrace the first moment in my power to acknowledge its receipt.

I am too well aware of what is due from me to the government to renew, or unnecessarily to prolong, the discussion of the subject contained in my letter of October 3d. In submitting to you the views I entertained, I fulfilled a duty which, in my opinion, circumstances imposed upon me. But I should consider myself obnoxious to the censure of improper interference, with which you have not sparingly reproached me, but from which I trust I shall satisfy you I am free, did I seek to make my correspondence with the department the vehicle for obtruding my sentiments upon the government. Still I am anxious not to be misunderstood, and more especially since you give me to understand that the communications which have passed between us upon this subject are to be published, and thus submitted to the great tribunal of public opinion, which will be called upon to decide respecting the course I have deemed it necessary to adopt, as well as the manner in which I have fulfilled the task. And as you have in several instances misapprehended my views, and adapted your reasoning to your constructions, rather than to my sentiments, and as I have full confidence in your desire to do me justice, I must beg leave briefly to lay before you such considerations connected with my letter, and your comments upon it, as are essential to a correct judgment between us.

And, first, with respect to the procedure on my part.

You object to my whole course of action in this matter, because it appears to you to be "intended as a sort of protest or remonstrance against a transaction of the government," &c.

I have been very unhappy in the mode in which I have expressed myself, if I am justly liable to this charge. My letter is not a protest or remonstrance. It is a simple answer to a dispatch which I had the honor to receive from you. In your letter of August 29th, you commnnicated to me the views of the President in relation to the treaty then recently concluded with England; and you also authorized me to make known these views to the French government. This I did, both in conversation and in writing. Here was a dispatch requiring my action, and which received it in good faith. But I did not coincide with you in opinion respecting an important bearing of this treaty. I thought it left us in a worse position than it found us; and so thinking, I deemed it my right, and felt it my duty, to lay before you the impression which the whole matter had left upon my mind. I did so, and the result is before you. Under these circumstances, was I guilty of indiscretion, or of an impertinent interference, still more offensive, which, it seems to me, from the tone of your letter, is the construction you put upon my action?

This question will perhaps be best answered by another. Is it the duty of a diplomatic agent to receive all the communications of his government, and to carry into effect their instructions, *sub silentio*, whatever may be his own sentiments in relation to them? Or, is he not bound, as a faithful representative, to communicate freely but respectfully his own views, that these may be considered and receive their due weight in that particular case, or in other circumstances involving similar considerations? It seems to me that the bare renunciation of the principle is all that is necessary for my justification. I am speaking now of the propriety of my action, not of the manner in which it was performed. I may have executed the task well or ill; I may have introduced topics unadvisedly, and urged them indiscreetly. All this I leave without remark, I am only endeavoring here to free myself from the serious charge which you bring against me. If I have misapprehended the duties of an American diplomatic agent upon this subject, I am well satisfied to have withdrawn, by a timely resignation, from a position in which my own self-respect would not permit me to remain. And I may express the conviction that there is no government, certainly none this side of Constantinople, which would not encourage, rather than rebuke, the free expression of the views of their representatives in foreign countries. But, independently of this general objection to all action on my part, you present me with another, perhaps still more formidable, but which is applicable only to the circumstances of this case. Without repeating in full the view you urge upon this part of the subject, I shall condense the objection into the proposition that the expression of my sentiments to the government upon this occasion might induce England here-

after "to rely upon my authority for a construction favorable to her own pretensions, and inconsistent with the interest and honor of the United States."

In the first place, I would remark that I have written for my own government, and not for that of England. The publication of my letter which is to produce this result is to be the act of the government, and not my act. But if the President should think that the slightest injury to the public interest would ensue from the disclosure of my views, the letter may be buried in the archives of the department, and thus forgotten and rendered harmless.

But even were immediate publicity to be given to it, I know my own insignificance too well to believe it would produce the slightest influence upon the pretensions or the course of England. The English public, and especially the statesmen, are too sagacious to need the suggestions of any foreigner, and too pertinacious in the assertion of their claims to seek his authority for their support. When England, in her progress to that supremacy upon the ocean, which has been the steady object of her ambition for centuries, and will continue to be so, abandons a single pretension, after she has once advanced it, then there may be reason to believe she has adopted a system of moderation, which may be strengthened or weakened, as the opinion of others is favorable or unfavorable to her. There is no evidence that that time is near. But were it otherwise, does it follow that in all discussions between nations it is the duty of every man to believe his own government has attained every object which the interest or honor of the country requires, or not believing it, to remain silent, and to refrain from all representations, either to the government itself, or to the public, with a view to the ultimate correction of the error, and to the relief of his country from a false position? I must confess I do not carry my patriotic devotion thus far. I agree, that when nations have appealed from argument to force, and when a war is raging, it is the duty of every citizen to put all other considerations behind him, and, avoiding profitless and party discussions upon the past, to join with head, heart and hand, to repel the common foe. At such a time, I would not speak words of censure even to my countrymen, lest I should be overheard by the enemy. And that this is not with me a barren doctrine, I trust I have given sufficient evidence in perilous times. But I was not prepared for that excess of patriotic zeal (pardon me the expression, for such it appears to me) which would carry this reserve into all the actions of the government, as well in peace as in war. I believe that in our recent treaty with England, sufficient precaution was not taken to guard against her claim to search our ships. This belief I entertain in common with many other citizens, in office and out of office; and I, as well as they, have expressed it. It has been declared in the Senate, in the public journals, in every district of our country. And I cannot feel that this avowal of our sentiments, in whatever form it is made, whether official or unofficial, justly sub-

jects us to the charge of taking a course which may hereafter enable other governments to "set up new pretensions."

Permit me now to advert to the serious charge you have made against me, of venturing upon a statement, which is a tissue of mistakes. This statement you quote, and it is that part of my letter in which, after showing that, to a certain point of time, our national honor had been preserved inviolate, I proceed to show that the subsequent course of events had not been equally fortunate. I remark, that England never urged the United States to enter into a conventional arrangement by which the joint action of the two countries in the suppression of the slave trade might be secured. You pronounce this statement a mistake, and assert that the proposition came from our government.

That the particular mode, in which the government should act in concert, is finally arranged in the treaty, was suggested by yourself, I never doubted. And, if this is the construction I am to give to your denial of my correctness, there is no difficulty upon the subject. The question between us is untouched. All I said was, that England continued to prosecute the matter, that she presented it for negotiation, and that we, therefore, consented to its introduction. And if Lord Ashburton did not come out with instructions from his government to endeavor to effect some arrangement upon this subject, the world has strangely misunderstood one of the great objects of his mission; and I have misunderstood that paragraph in your first note, where you say that Lord Ashburton comes with full powers to negotiate and settle all matters in discussion between England and the United States. But the very fact of his coming here, and of his acceding to any stipulations respecting the slave trade, is conclusive proof, that his government were desirous to obtain the co-operation of the United States. I had supposed our government would scarcely take the initiative in this matter, and urge it upon that of Great Britain, either in Washington or in London. If it did so, I can only express my regret, and confess that I have been led inadvertently into an error.

You then proceed to remark, in continuation of this *tissue of mistakes*, that, in entering into this arrangement, the United States did not depart from the principle of avoiding European combinations upon a subject not American, because the abolition of the slave trade is equally an American and European subject. This may be so; I may be wrong in the application of the principle. But such an erroneous conclusion scarcely justifies the epithet of an adventurous statement, one of a tissue of mistakes. But, apart from this, I still think that combinations of this kind are among the "entangling alliances," against which the great statesman, whose expositton of our constitution will go down to posterity with the instrument itself, warned his countrymen. And the perpetually recurring difficulties which are presenting themselves in the execution of the conventions between France and England upon this subject should be a caution to nations against the introduction

of new maritime principles, whose operations and results it is difficult to foresee.

But is the suppression of the African slave trade one of those American objects, in the attainment of which we ought to seek the co-operation of other nations, and regulate our own duties and theirs by treaty stipulations? I do not think so. In the first place, the principle would necessarily lead us to form alliances with every maritime nation. It is not England alone whose flag rides over the seas. Other countries must co-operate, if any co-operation is necessary. And if we have made propositions to England to join us in this effort, I do not see why we stop there and deprive ourselves of the aid which the action of other nations would afford. I doubt if the people of this country are prepared for such extensive combinations.

But again, while fully agreeing with you in all the odium you cast upon that infamous traffic, it appears to me that any object interesting to humanity, and in which nations may with propriety engage, has the same claim, if not in degree, at least in principle, upon our interference, and calls upon us for a union with other nations to effect it. It may be easily seen, not where such a doctrine would conduct us, that escapes human sagacity, but toward what ruinous consequences it leads.

You conclude this branch of the subject, by informing me that you are directed by the President to bring to my "serious consideration and reflection the propriety of such an assumed narration of facts, as your dispatch in this respect puts forth."

I shall not say one word to give the President any cause of offence, and if I felt that I was justly obnoxious to this censure, I should submit to the rebuke in silence. He would have a right to make it, and it would be my duty to acquiesce. But I have that confidence in his innate love of justice, that he will receive my explanations, and judge me by my words, and not by unauthorized constructions.

Now, in all that I have said in the paragraph to which you allude, and which you have so strongly qualified, you have pointed out but one fact, as erroneous, and that is the assertion, that the introduction of the subject of the slave trade into the treaty was due to the application of England. And whether even this was an error depends upon the construction to be given to your explanation. All else, I repeat it, all else, to the very least idea, is matter of inference. It is my deduction from the circumstances of the case. I may be right or wrong, logically, in the conclusions I have reached; but certainly I am not morally responsible for their correctness, as I should be if I asserted merely naked facts. It is, therefore, with not a little astonishment I have read and re-read what I wrote, and the commentary you have been pleased to make upon it. It is neither necessary nor proper that I should renew the general subject of my letter, and therefore I do not feel it my duty to trouble you with any remarks respecting the views you

have presented me of the pretensions of the British government to search our ships. But when you proceed to array me against myself, I must claim the right to vindicate my own consistency. You quote me, and quote me correctly, as saying, that, up to the delivery of the annual message of 1841, our national dignity was uncompromitted. You then ask what has since occurred to compromit this dignity, and you add emphatically that I shall myself be the judge of this, because in a subsequent part of my dispatch I say the mutual rights of the parties are wholly unchanged. And you ask, if they are unchanged, what ground there is on which to found a complaint against the treaty. I think that a very brief retrospect will be the best answer I can give to this question, and that it will redeem me from the implied charge of inconsistency.

I never said nor intimated in my dispatch to you, nor in any manner whatever, that our government had conceded to that of England the right to search our ships. That idea, however, pervades your letter, and is very apparent in that part of it which brings to my observation the possible effect of my views upon the English government. But in this you do me, though I am sure unintentionally, great injustice. I repeatedly state, that the recent treaty leaves the rights of the parties as it found them. My difficulty is not that we have made a positive concession, but that we have acted unadvisedly in not making the abandonment of this pretension a previous condition to any conventional arrangement upon the general subject. I had supposed, till I read your letter, that this view was too distinctly expressed in my dispatch to admit of any misconstruction. I will condense into a small space what I deem it necessary to say in defence of my consistency.

England claimed the right, in order as she said, to carry into effect certain treaties she had formed for the suppression of the slave trade, to board and search our vessels upon the high seas, wherever she might find them. Our government, with energy and promptness, repelled this pretension. Shortly after, a special British ambassador arrived in our country, having powers to treat upon this matter of the slave trade. The negotiation terminated by an arrangement which secures the co-operation of the United States in the efforts that England is making upon this subject. But not a word is said upon the serious claim that subjects to the naval inquisition of a commercial rival our ships, which the enterprise of our merchants is sending to every part of the globe. And yet this claim arises out of the very subject matter embraced in this treaty. We negotiate with England for the suppression of the slave trade, at the very moment her statesmen are telling us in no measured terms, that to suppress it she will violate our flag, and that she will never give up this pretension. Now here it appears to me the government should have stopped. The English negotiator should have been told, "We abhor as much as you do the traffic in human beings, and we will do all that our peculiar institutions permit to put an end to it. But we will not suffer this matter to

be made the pretext for wounding our honor and violating our rights. We will not take a single step till you renounce this claim. We have denounced it already, and if we should negotiate upon the subject matter without settling this preliminary question, it may seem like an abandonment of the ground we have taken, or an indifference to the consequences."

Had this course been pursued, the sincerity of the British government would have undergone a practical test, from which there would have been no escape. It would not have been necessary to quote the last dispatch of Lord Aberdeen to show what he meant in another, or Lord Palmerston in the first. If such a proposition had been made and accepted, our honor would have been vindicated, our rights secured, and a bright example of sincerity and moderation would have been given to the world by a great nation. If it had been rejected, that would have proved that our co-operation in the suppression of the slave trade was a question of minor importance, to be sacrificed to the preservation of a pretension intended to introduce an entire change in the maritime police of the world.

Why this very obvious course was not adopted, I am utterly at a loss to conjecture; and that it was not, is precisely the objection to which the whole arrangement is liable. Instead of the high ground we should then have occupied, we now find ourselves seriously discussing the question, whether or not England will enforce this claim. That she will do so when her interest requires it, I have no more doubt than I have that she has already given us abundant proof that the received code of public law is but a feeble barrier when it stands in the way of power and ambition. Lord Palmerston and Lord Aberdeen both tell us she will.

You refer to that part of my letter in which I observe that the effect of the new stipulation is to place our municipal laws in some measure beyond the reach of Congress, and remark that such is often the effect of commercial treaties. It is so, and we can only expect to obtain commercial advantages by stipulations for corresponding advantages, which, while they endure, are beyond the reach of ordinary legislation. This is matter of necessity. But this necessity does not exist in the punishment of crimes. We are able to enforce our own laws; and I do not see that the power to enforce those of England gives us any just compensation for permitting her to interfere in our criminal code, whether the offence is committed upon the land or upon the water. It seems to me a principle fraught with dangerous consequences, and which a prudent government had better avoid.

There is but one other topic which I consider it necessary to advert to, but that is an important one, and I pray your indulgence while I briefly allude to it.

You speak of the ratification of the treaty by the President and Senate, and add that it does not appear to you that I had any grounds of complaint because their opinion was at variance with

mine. I submit that this is making an issue for me which I have not made for myself. In no part of my letter will be found the slightest imputation upon the President or Senate for the ratification of this treaty. I could not make such an imputation for the plain reason that I never censured the ratification. I am under the impression, if I had a vote to give, I should have been found with the majority upon that occasion. This, however, would have been upon the condition that some declaration should be annexed to the act of ratification denouncing the pretension to search our ships. I would then have sent the instrument to the British government, and placed upon them the responsibility of its final rejection or ratification; and I am sure we should have had the opinion of the world with us under such circumstances.

The rejection of a treaty duly negotiated, is a serious question; to be avoided whenever it can be without too great a sacrifice. Though the national faith is not actually committed, still it is more or less engaged; and there were peculiar circumstances, growing out of long standing difficulties, which rendered an amicable agreement of the various matters in dispute with England a subject of great national interest. But the negotiation of a treaty is a far different subject. Topics are omitted or introduced at the discretion of the negotiators, and they are responsible, to use the language of an eminent and able Senator, for "what it contains and what it omits." This treaty, in my opinion, omits a most important and necessary stipulation, and therefore as it seems to me, its negotiation in this particular was unfortunate for the country.

In conclusion, I beg you to tender to the President my thanks for the kind appreciation he made of my services in the letter of recall, and to express to him my hope that, on a full consideration of the circumstances, he will be satisfied that if my course was not one he can approve, it at all events was such as to relieve me from the charge of an improper interference in a subject not within the sphere of my duties.

I must pray you, as an act of justice, to give the same publicity to this letter that you may give to my letter of October 3d and to your answer.

Very respectfully, sir, I have the honor to be,

Your obedient servant,

LEW. CASS.

HON. DANIEL WEBSTER, *Secretary of State.*

The foregoing letters were made public by a call of the Senate upon the President for the correspondence relating to the quintuple treaty. When Gen. Cass was at Washington, upon his return to this country, which was after the receipt by the Secretary of State of his letter of December 11th 1842, he was under the impression that the controversy between himself and Mr. Webster was terminated. He was therefore greatly surprised by the receipt at

Detroit, of a communication from Mr. Webster, on the 7th of March 1843, post marked Washington, February 23rd 1843, and bearing date December 20th 1842, at which last date Gen. Cass was at Washington, and having there received no answer, or intimation that there would be one to his letter of December 11th 1842, he considered, and so stated that the controversy was closed. It seems that Mr. Webster, desiring to have the last word, prepared and published with the official correspondence, a reply to Gen. Cass' letter of December 11th, which was not seen by the General until the following March, and to which he had no opportunity of replying prior to the authoritative call of the Senate for the correspondence. This somewhat singular and disingenuous proceeding of Mr. Webster, compelled Gen. Cass to appear again before the public with a letter in reply. In this letter, which is here given at length, the positions of Mr. Webster are examined and dissected; his arguments analyzed and demonstrated to be untenable. The impression produced by this letter generally in the minds of the people, was that more care in the negotiation of the treaty, a more strict and energetic requirement by the Secretary of State of certain disavowals and acknowledgements by the English ambassador, would have rendered the treaty more consistent with the position assumed and maintained by our government in regard to the right of search.

LETTER FROM LEWIS CASS,

Late American Minister at Paris, to Daniel Webster, Secretary of State, on the Right of Search, Dated March 7th 1843.

DETROIT, *March* 7th 1843.

SIR: I have just received your letter dated December 20, 1842, and postmarked "Washington, February 23, 1843," which commences by stating that my letter of the 11th instant (that is, my letter of December 11th 1842) had been submitted to the President.

I had no desire to continue the correspondence, which has arisen between us. I had said all I felt called upon to say in my own defence, and I had determined there to leave the subject. This determination I expressed to you immediately before I left Washington in January, when you intimated to me, that you should probably answer my letter of December 11th. I should not have departed from this resolution, had I not felt it due to myself, that the actual date of the receipt of your letter should be established.

I have reason to suppose, that the correspondence between us,

has ere this been submitted to Congress, and that it will thus come before the nation. Your late letter has no doubt made part of these documents, and persons reading it may well suppose it was written the twentieth of December last, and received by me while I was yet at Washington.

The error will, no doubt, be readily explained at the department, for I need hardly say I am sure it was unintentional. But in the meantime it may do me serious injury; for while at the seat of government, where this correspondence was well known, I more than once stated that my letter of December eleventh was unanswered.

It is essential, therefore, to me that it should be known, that this statement was true, and this can only be done by spreading the correction as widely as the error has been spread.

This is my first and principle reason for writing you, and without this reason I doubt if I should have broken the silence I intended to keep, though there are passages in your letter, that might well have induced me to depart from this resolution. The correspondence has already grown to an unreasonable length, and I am very unwilling to prolong it; but as I am compelled to write, from the circumstances adverted to, I shall, without further apology, proceed to examine some of the topics presented in your last letter, and also to call to your observation some very offensive remarks contained in your despatch of November fourteenth, and, to my surprise, repeated in the recent one. Before doing this however, I shall advert to one view presented in the November letter, and which the haste, with which my reply was written, prevented me from considering.

Even if I had entertained a desire still further to discuss the questions, which have arisen between us out of the treaty of Washington, the course which events, connected with that treaty, are now taking, would have rendered such a measure wholly unnecessary for any purpose, I had originally in view. All I feared and foretold has come to pass. The British pretension to search our ships, instead of having been put to rest, has assumed a more threatening and imposing form, by the recent declaration of the British government, that they intend to enforce it. As you already know, the seventeenth of last September, the very day I read the treaty in a New York paper, I solicited my recall. I stated to you I felt that I could not remain abroad, honorably for myself nor usefully for our country; and that I considered the omission of a stipulation in that treaty, which settled the African slave trade question, to guard against the right of search or visitation, or by what other name it may please the British government and country to express this claim to violate our flag and to board our vessels, as a fatal error; considering particularly, that this pretension had been first put forth and justified in connexion with that traffic. And so viewing the subject, I felt that the course I had taken in France in opposition to the ratification of the quintuple treaty,

which was intended to engraft this principle upon the law of nations, had not been supported by the government, as I thought it it should have been.

In my protest to M. Guizot, of February thirteenth, 1842, I had staked my diplomatic situation and character upon this support.

Your letter of April fifth, 1842, conveyed the President's approval of my conduct, and this you consider, in your letter of November fourteenth, 1842, as taking from me all further responsibility.

You say, that "having delivered my letter to M. Guizot, and having read the President's approbation of that proceeding, it is most manifest that you could, in no degree, be responsible for what should be done afterwards, and done by others." You add, as a corollary from this proposition, that "the President, therefore, cannot conceive what particular or personal interest of yours was affected by the subsequent negotiation here, or how the treaty, the result of that negotiation, should put an end to your usefulness as a public minister at the court of France, or in any way affect your official character or conduct."

The answer to this is so obvious, that I cannot but express my surprise it has escaped your observation. A diplomatic agent, without instructions, takes a responsible step, which he thinks called for by the honor and the interests of his country. He states, that he acts without the knowledge of his government, and that, if unsupported, he must return home, You think that the approval of his course by his own government absolves him from all further responsibility, and that, happen what may, his honor and usefulness are unimpaired. My opinion is far different. If his government approve his course upon paper, and abandon, in effect, the measures he advocates, he cannot represent his country as his country ought to be represented abroad. And I may safely add, that no man, fit to be sent upon a foreign mission, would hesitate a moment as to the course he ought to pursue. He would not entrench himself behind his paper approval, for, if he did, he would hear words of reproach respecting his government, which no man of honor could submit to. In my case you approved my proceedings, but, as I say and believe, you did not guard against this pretension of England to search our ships, which occasioned my interposition, as it should have been guarded against; and thus, in fact, left me unsupported.

It is by this process of feeling and reasoning, that I reached the conclusion you censure in no measured terms, and I trust you will now see "how the treaty, the result of that negotiation, should put an end to my usefulness as a public minister at the court of France."

It put an end to it, because I said the American Government would resist the right of search. The government said the same thing, but unfortunately went on to make a treaty, resp e ctingthe slave trade with England, without saying a word about this pretension, at the very time England had announced to the world that

she would search our ships, in order to carry into effect the treaties she had negotiated with other nations upon this very subject-matter. And now I am gravely told, that I might have remained, after this, the representative of my country, because my official conduct and character were not affected.

I am not considering which of us is right in his view of the proper course of the government respecting this treaty. I lay that out of the question. I contend that, in my opinion, I was not sufficiently supported, and this being so, that I ought to have returned. You contend that my opinion has nothing to do with the matter; that the government took upon itself the responsibility, and therefore, even if a treaty had afterwards been negotiated "containing provisions in the highest degree objectionable, however the government might be discredited," the minister was free; and that his "usefulness" could not be thereby affected.

I shall not argue this point with you. It is a question of feeling, quite as much as of reasoning, and he who would remain at a foreign court under these circumstances, to represent a "discredited" government, has no sentiments in common with me upon the subject. You state in your letter, dated December 20, that a declaration guarding against this claim to search our vessels, would have been "no more suitable to this treaty than a declaration against the right of sacking our towns in time of peace, or any other outrage." You enlarge upon this proposition, and, in fact, a considerable portion of your letter is occupied with the defence of the omission of such a declaration. You suppose I had advanced the idea "that something should have been offered to England as a benefit, but coupled with such a declaration or condition as that, if she received the boon, it would have been a recognition by her of a claim, which we make as a matter of right."

You add, that the President, satisfied of the justice of the American doctrine, has "avoided to change this ground, and to place the just right of the country upon the assent, express or implied, of any power whatever." "The government thought no skilfully extorted promises necessary in any such cases," &c. All this, and much more in your letter upon this topic, appear to me very extraordinary. I never made a suggestion of the nature you suppose. I never, for a moment, presumed the government would hold out to England a consideration for the disavowal of this pretension. What I really said, I will here repeat from my letter to you of February 15, 1842. But, before quoting the paragraph, I will make a quotation from what immediately precedes, to show that I had a correct notion of what would be the course of England. The *holy* Chinese war is ended, and the British army has withdrawn to the east of the Indies. The *pattern republic*, as we are contemptuously called, can now be attended to.

After showing that this pretension to search our ships is a claim to which this country can never submit, I remark: "The next question is, will England yield?" "It is our safer course to be-

lieve she will not, and, looking to her line of policy, that, too, is our natural course. Wherever she has planted a foot, whether on marsh, moor, or mountain, under the polar circles as under the tropics—I will not say *never;* that word does not belong to the deeds of man—but rarely has she withdrawn it. Whenever she has asserted a pretension, she has adhered to it, through good report and through evil report, in prosperity and in adversity, with an iron will and a firm hand, of which the history of the world affords no equal example since the proudest days of the Roman empire," &c.; "and the time has come when we must look her designs in the face, and determine to resist or to yield. War is a great evil, but there are greater evils than war, and among these is national degradation. This we have never yet experienced, and I trust we never shall."

"If Lord Ashburton goes out with such modified propositions upon the various questions now pending between the two governments as you can honorably accept, the result will be a subject of lasting gratification to our country. And more particularly if, as I trust, before entering into any discussions, he is prepared to give such explanations as will show, that we have misunderstood the intentions of the British government respecting this claim of a right to change the law of nations, in order to accommodate it to their treaty stipulations and its practical consequences—a claim to enter and search our vessels at all times and in all places. This preliminary proceeding would be worthy of the gravity of the circumstances, and equally honorable to both governments."

Whether, in all I said above respecting the tenacity of England in the prosecution of her claims, new or old, I was justified by the characteristic traits of her history, let me be judged by the late emphatic declaration of the chief of the British cabinet, made to the House of Commons, and through them to the world; and which, we are significantly told, was cheered by both sides of the House; and whether I am right in saying that I never thought of proposing that a "benefit" should be offered to England for the relinquishment of this pretension, as you allege, let me be judged by my own words.

My letter of December 11th, is in accordance with these views. After stating the nature of this claim, I continue: "Now here, it appears to me, the government should have stopped. The English negotiator should have been told; We abhor as much as you do this traffic in human beings, and we will do all our peculiar institutions permit, to put an end to it. But we will not suffer this matter to be made the pretext for wounding our honor and violating our rights. We will not take a single step, till you have renounced this claim. We have already denounced it; and if we should negotiate upon this subject matter, without settling this preliminary question, it would seem like an abandonment of the ground we have taken, or an indifference to the consequences."

This last paragraph touches, in my opinion, the true issue be-

tween us of this part of the controversy. You say that the insertion of a declaration against the right of search "would have been no more suitable to this treaty, than a declaration against the right of sacking our towns in time of peace," &c., &c.; and hence draw the conclusion that its omission was both honorable and politic. As this sin of omission is the principal charge I make against this treaty, and as it is the one you labor most earnestly to reason away, I must be permitted again briefly to refer to it.

The British government, in order, as they said, to execute certain treaties they had formed for the suppression of the slave trade claimed the right to board and examine American ships. The American government denied this pretension, and thus stood the parties before the world. Then comes a British negotiator to our shores, to settle the subjects in difference between the two countries. Two of these are settled. One is this slave-trade question; the very question which gave rise to the monstrous pretension that is preparing for us so much trouble. And this is distinctly admitted in the President's message, which states that, "after the boundary, the question which seems to threaten the greatest embarrassment was that connected with the African slave trade."

You negotiated upon the subject-matter, knowing the construction the British government had given to its other slave treaties, and knowing, what is clear in itself, as stated in my letter of October 3d, 1842, and what Sir Robert Peel has now fully confirmed, that "if a British cruiser meet a vessel bearing the American flag, where there is no American ship to examine her, it is obvious that it is quite as *indispensable* and *justifiable* that the cruiser should search this vessel to ascertain her nationality, since the conclusion of the treaty, as it was before." The error, therefore, was in negotiating upon this very subject, leaving to the other party to say we have concluded an arrangement respecting the slave trade with you, since our mutual pretensions concerning the right of search have been made known. You were aware that our claim arose out of that subject, and, as you have not guarded against it, we shall enforce it.

As to the analogy between such a claim and one to sack a town in time of peace, it is a sufficient answer to say, that when such a pretension is solemnly put forth to the world by England, I shall think any government deserving the severest reprobation, which would go on and negotiate upon a subject-matter connected with the origin of such a claim, without sufficient security against it; more particularly if, as in this case, the subject-matter relates to a question of general benevolence, urged upon us, no doubt, by *the most philanthropic motives*, but which no just principle requires us to intermeddle with, at the sacrifice of the first attributes of our independence.

You make some remarks upon the impropriety of requiring from any nation a solemn renunciation of an unjust pretension, and you proceed to observe that the President "has not sought, but, on the

contrary, has sedulously avoided, to change the ground, and to place the just rights of the country upon the assent, express or implied, of any power whatever." "The government thought no skillfully extorted promises necessary in any such cases."

As to the extortion of promise, it is a question of ethics, which has no place here. As to the propriety of requiring a nation formally to disavow an unjust pretension before entering into a negotiation with her, or, if she will not do so, of then telling her, we shall stand upon our public denial of your claim, and will not negotiate with you, it seems to me that such a course is equally honorable and politic. Is not diplomatic history full of these efforts to procure such disavowals, and who before ever expressed a doubt of the policy of these measures? Have we not, time after time, endeavored to induce England to stipulate, that she would not impress seamen from our ships? And did you not, in the course of the late negotiation with Lord Ashburton, strive to procure the solemn abandonment of this claim? There is conclusive proof of this in your letter to the British minister of August 8th, 1842, where you say, after having conversed with him, that "the government of the United States does not see any utility in opening such negotiation, unless the *British government is prepared to renounce the practice in all future wars.*"

You remark, also, in the same letter, that "both before and and since the war, negotiations have taken place between the two governments, with the hope of finding some means of quieting these complaints" (of impressment.) You allude also to the convention formed for this purpose by Mr. King, in 1803, and to the "utter failure of many negotiations upon this subject."

Were all these fruitless efforts, so long carried on, liable to the objection you raise, that any nation, calling upon another to disavow an unjust pretension, weakens its own cause, and "that no interpolation of a promise to respect them, (that is, our rights and dignity,) ingeniously woven into treaties, would be likely to afford such protection?"

Now, what becomes of the analogy you seek to establish, and which by a *reductio ad absurdum*, is intended to show that these conventional disavowals of contested pretensions are "skillfully extorted promises," inconsistent with our dignity and interests? What becomes of the claim to sack our towns in time of peace, and of "protests," which you liken to Chinese figures painted on cities, to frighten away the enemy?

From the time of Washington to this day, almost every administration has sought to procure from the British government a solemn relinquishment of her claim to impress our seamen, and never before was it discovered that the effort was unworthy and dishonorable.

And, during all the period of the long war between England and France, at the close of the last century and at the beginning of this, when the laws of nations and the rights of neutrals were

equally contemned, how many attempts were made by our government to induce that of Great Britain to abandon her unjust pretensions, and to stipulate that she would no more exercise them? and that, too, for a "boon." Our public documents are filled with proofs of this. I shall refer to one or two, which even you will deem conclusive.

In a letter from Mr. Madison to Messrs. Monroe and Pinkney, dated May 20th, 1807, our negotiators are told, "that, "without a provision against impressment, substantially such as is contemplated in your original instructions, no treaty is to be concluded."

Again, in a letter from Mr. Madison to Mr. Monroe, dated January 5th, 1804, the former remarks that "the plan of a convention, contemplated by the President, is limited to the cases of impressment of our seamen, of blockades, *of visiting and searching our vessels*, of contraband of war, and of the trade with hostile colonies, with a few other cases, affecting our maritime rights, *embracing,, however, as inducements to Great Britain to do us justice* therein, a provision for the surrender of deserting seamen and soldiers, and for the prevention of contraband supplies to her enemies."

Then follows the plan of a convention for these purposes.

And this *projet* was the work of Mr. Madison, directed by Mr. Jefferson, and addressed to Mr. Monroe. The "rights and dignity" of the United States were as safe in their hands, as they will ever be in mortal hands. And even if I had recommended, as I have not, a "boon," or "favor," or "benefit," to be given to England, in consideration of her relinquishment of this offensive claim, I should not have wanted higher precedents to justify me.

You object to the suggestion I made, that a declaration should have accompanied the ratification of the treaty, denying the right to search our ships; and you ask, apparently emphatically, if this had been done, and if the British "government with equal ingenuity had appended an equivalent written declaration that it should not be considered as sacrificing any British right, how much more defined would have been the right of either party, or how much more clear the meaning and interpretation of the treaty?"

I am very unwilling to believe you do not wish to deal sincerely with me in this matter, and I must, therefore, attribute the strange error, you have committed, in the construction of my language, to a hasty perusal of it. Had you read it with due care, you would have found that I spoke not of an *ex parte* declaration, but of a declaration mutually assented to, and which thereby would have become a portion of the treaty: a declaration, putting a construction upon the instrument, which would thus have been ratified with a knowledge of it. After meeting your assertion, that the tendency of my letter was to impute blame to the President and Senate for the ratification of the treaty, and showing that it was not the ratification but the negotiation I censured, I add, "I am under the impression, if I had had a vote to give, I should have been found

among the majority upon that occasion. This, however, would have been upon the condition, that some declaration should be annexed to the act of ratification, denouncing the pretension to search our ships. I would thus have sent the instrument to the British government, and placed upon them the responsibility of its final rejection or ratification, and I am sure we should have had the opinion of the world with us under such circumstances." I need add nothing to this branch of the subject. It is clear that I spoke here of a conditional ratification, depending upon the assent to be given by the other party to the declaration concerning the claim of search. There would have been here no room for the diplomatic retort you suggest. There could have been no counter declaration, for then the whole arrangement would have been void. As I said in my letter of December 11th, "Had this course been pursued, the sincerity of the British government would have undergone a practical test, from which there would have been no escape. It would not have been necessary to quote the last despatch of Lord Aberdeen to show what he meant in another, or Lord Palmerston in the first. If such a proposition had been made and accepted, our honor would have been vindicated, our rights secured, and a bright example of sincerity and moderation would have been given to the world by a great nation. If it had been rejected, that would have proved that our co-operation in the suppression of the slave trade was a question of minor importance, to be sacrificed to the preservation of a pretension, intended to introduce an entire change into the maritime police of the world." "Why this very obvious course was not adopted, I am utterly at a loss to conjecture, and that it was not, is precisely the objection to which the whole arrangement is liable. Instead of the high ground we should then have occupied, we find ourselves seriously discussing the question whether or not England will enforce this claim."

There was a very uncourteous tone pervading your letter to me of November 14th, 1842; a kind of official loftiness, which, however it may suit other meridians, does not belong to an American functionary writing to an American citizen. My answer to that letter was very hastily written. It was prepared, as you will perceive by the date and by your receipt of it, the very day the postmaster of New-York handed me your communication.

I was aware that the subject ought to occupy more time, and that justice was not done to it. But you had intimated pretty distinctly in your letter, that our correspondence was to be published, and I was apprehensive it might, somehow or other, find its way to the public before I could correct the erroneous impression, which your letter was calculated to produce. Under these circumstances, my attention was drawn to the general course of reasoning rather than to the mode in which this was conveyed; and, although there were one or two paragraphs, so plainly uncourteous, that they could not escape my observation, still I passed them by, having little taste for a war of words; but, in your letter dated De-

cember 20th, and received February 23d, these offensive expressions are repeated, and the same process is adopted to prove me guilty of misstatement, which is contained in the preceding letter. I met this attempt at that time without any reference to the language which you used. I shall meet it again; but I shall take leave to precede my defence by reminding you of the comity, which an American Secretary of State owes to his countrymen. You say "the President is not a little startled, that you should make such totally groundless assumptions of fact, and then leave a discreditable inference to be drawn from them. He directs me not only to repel this inference, as it ought to be repelled, but also to bring to your serious consideration and reflection the propriety of such an assumed narrative of facts, as your despatch, in this respect, puts forth."

"The President cannot conceive how you should have been led to adventure upon such a statement as this. *It is but a tissue of mistakes.*" "All these statements, thus by you made, and which are so exceedingly erroneous," &c.

And, in your last letter, you say that, "in attempting to escape from some of the mistakes of this tissue, you have fallen into others," &c.

Following your example, it would have been easy to find a retort for these expressions, which would want neither point nor truth. But my own self respect, and, still more, my respect for that great tribunal of public opinion, which is to judge between us, forbid me from imitating your course upon this occasion. I would remind you, that there is nothing in your official position, nothing in our relative situation, which can justify this lofty assumption of superiority. I doubt if a parallel can be found in diplomatic history since Napoleon swayed the destinies of the world. But the use, which you make of the President's name, in this undignified language, is even more to be regretted than the epithets themselves. That high functionary should not be invoked, when a private citizen is thus assailed. Under different circumstances, such conduct might be imitated by the other party, and a system of crimination and of recrimination introduced into the correspondence of the department, equally injurious to the public interest, and incompatible with the public honor. Upon the present occasion, no such result will happen. I have too much respect for the Chief Magistracy of my country, and too much regard for the distinguished individual who occupies that high post, to introduce his name unnecessarily into this discussion; and, notwithstanding you have appealed to him, I shall still consider the language as yours, and not as his. Many others would not be as forbearing. I say the "language," for it is that which I censure, I do not question your right, nor the right of any other person, freely to examine and to meet statements and arguments at discretion. But let this be done with the courtesy of a gentleman.

I shall now proceed, as briefly as possible, to examine these

charges of *an assumed narrative of facts*; of *groundless assumption*, and of *a tissue of mistakes*, which you have once and again preferred against me. But first, let us see what is the grave fault you allege I have committed. I will state it in your own words:

"Before examining the several objections suggested by you, it may be proper to take notice of what you say upon the course of the negotiation. In regard to this, having observed that the national dignity of the United States had not been compromitted down to the time of the President's message, at the last session, you proceed to say: But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in measures for the suppression of the slave trade. Until then, we had executed our own laws in our own way. But, yielding to the application, and departing from our former principle, of avoiding European combinations upon subjects not American, we stipulated, in a solemn treaty, that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

After this quotation, you thus continue; "The President cannot conceive how you should have been led to adventure upon such a statement as this. It is but a tissue of mistakes. The United States yielded to no application from England; the proposition for abolishing the slave trade, *as it stands in the treaty*, was an American proposition; it originated with the executive government of the United States, which cheerfully assumes all its responsibility. It stands upon its own mode of fulfilling its duties, and accomplishing its objects. Nor have the United States departed, in this treaty, in the slightest degree from their former principles, of avoiding European combinations upon subjects not American; because the abolition of the African slave trade is an American subject as emphatically as it is an European subject, and indeed more so, inasmuch as the government of the United States took the first great step in declaring that trade unlawful, and in attempting its extinction. The abolition of this traffic is an object of the highest interest to the American people and the American government; and you seem strangely to have overlooked the important fact, that nearly thirty years ago, by the treaty of Ghent, the United States bound themselves, by a solemn compact with England, to continue 'their efforts for its entire abolition,' both parties pledging themselves, by that treaty, to use their best endeavors to accomplish so desirable an object."

"Again, you speak of an important concession made to the renewed application of England. But the treaty, let it be repeated, makes no concession whatever to England. It complies with no demand, conforms to no request. All these statements, thus by you made, and which are so exceedingly erroneous, seem calculated to hold up the idea that, in this treaty, your government has been acting a subordinate or even a complying part." And then follows the grandiloquent passage I have already quoted, commenc-

ing in such a solemn style, that the President was "startled" at all these grievous offences of mine.

Thus stands your charge in the letter of November 11th, 1842. It is renewed in that of December 20th. In my answer to the first I vindicated myself, and I thought successfully, against your complaint, and never supposed it would again rise up in judgment against me. I told you that you had qualified as a tissue of mistakes a paragraph which contained one statement, as a fact, to wit: that England had urged our government to enter into a treaty stipulation for putting an end to the slave trade, to which we yielded. I told you still further, why I, as well as the world, supposed that the application for this stipulation came from England. She had pursued this object steadily for forty years, and she had sent out a special minister charged to negotiate upon that as well as upon other subjects. We had no interest to form a slave trade convention. You refer to the treaty of Ghent as creating obligations upon this matter, but that treaty makes not the slightest allusion to any further arrangements, and has no more connexion with the treaty of Washington, than with the convention respecting armed vessels upon the lakes. It was complete in itself, and neither required nor looked to any other stipulations between the parties. And we had executed it in good faith.

For these reasons, I supposed that Lord Ashburton came out to propose to us to enter into another treaty upon this subject; and I thus stated it as an historical fact. In my answer, I further called to your observation that the rest of the paragraph was matter of inference or deduction, not admitting qualifications applicable, not to inferences, but to assertions. As I shall, by and by, have occasion to refer again to this branch of the subject, I shall not pursue it any further at present.

In your last letter you reiterate, in substance, what you had previously said, and add, that "it would appear from all this, that that which in your first letter appeared as a direct statement of fact, of which you would naturally be presumed to have had knowledge, sinks at last into inference and conjecture." Now, here is a very obvious error, which, by the slightest attention to what I said, would have been avoided; but I will not qualify the mistake as a *tissue* of anything. I did not say that the statement of facts, to which you refer, was all matter of inference. I said expressly, that the statement respecting the desire of England, that we should enter into this negotiation was put forward as a well-known fact, but that "all else—I repeat it, all else—to the very least idea, is matter of inference." Let the correctness of this assertion be judged by a reference to the paragraph. You continue: "But in attempting to escape from some of the mistakes of this tissue, you have fallen into others."

You then refer to my statement, that England continued to prosecute the matter, and that we consented to its introduction. This, however, it is very clear, is but the same idea before suggested

and combatted in your first letter. You say the English "minister no more presented the subject for negotiation than the government of the United States presented it."

You then ask me to "review my series of assertions on this subject, and see whether they can possibly be regarded, merely as a statement of your own inferences."

It would be but a waste of time to repeat what I have already said, that I assumed as an historical fact, believed by everybody, that Lord Ashburton came to urge the negotiation of this treaty, and that upon this point we yielded to the desire of England. When you say this is one of the "inferences" to which I refer, you furnish me with language and statements which are not my own.

But, after all, why this strange pertinacity in dwelling upon this point? Why this studied and repeated attempt to prove me guilty *of a tissue of mistakes*, because I believed Lord Ashburton submitted propositions upon this question of the slave trade, and that our government acceded to them? I have already shown, that this opinion was a natural one, and held in common with the country, and I trust I shall show this still more clearly. But even if not so, how does this change the state of things? Does it prove that the negotiator was more sagacious, or the treaty more useful and honorable? The result is the same, and the inquiry is therefore confined to the process. You will please to recollect I objected that we had yielded to the application of England, and made a treaty upon this subject, without guarding against a dishonorable pretension she had advanced respecting it.

This is the whole charge, which has provoked all this "startling" reproof. To this you answer, as though this answer took away all censure, that the "British minister no more presented the subject for negotiation than the government of the United States presented it;" that is, in other words *that the matter was jointly conducted and terminated*. And is it possible you can believe that this circumstance takes away the grave responsibility of an improvident arrangement, which left us worse than it found us; and, what is sincerely to be deplored by every American, which led the President of the United States, in his annual message to Congress—a document read by the world—to put a construction upon this instrument, which the English prime minister has contradicted in the most solemn manner, and in no measured terms? The President, in his message of 1841, says that this claim of "visit and inquiry" was "regarded as the right of search, presented only in a new form, and expressed in different words," and he adds that he had denounced it as inadmissible by the United States. He then proceeds to speak of the recent treaty, and thus continues: "From this it will be seen that the ground assumed in the message (to wit, that the United States would never submit to this new-fangled claim of 'visit and inquiry') has been fully maintained, at the same time, that the stipulations of the treaty of Ghent are to be carried out in good faith by the two countries, and *that*

all pretence is removed for interference with our commerce for any purpose by a foreign government."

This construction the English government deny, and boldly avow their adherence to the claim to board and examine our vessels. Now, where can you find one word in the treaty, which but intimates that this question respecting "visitation" has been even taken up or touched? Unfortunately, no such word is there; nor is there any principle of sound construction, which can supply its place. What I said to you in my letter of October 3d, upon this topic may, perhaps, produce more impression now than it did then. It has been marvellously confirmed. I remarked: "In carefully looking at the 7th and 8th articles of the treaty providing for the suppression of this traffic, I do not see that they change in the slightest degree the pre-existing rights claimed by Great Britain to search our ships. That claim, as advanced both by Lord Palmerston and Lord Aberdeen, rests on the assumption that the treaties between England and other European powers upon this subject could not be executed without its exercise, and that the *happy concurrence of these powers not only justified, but rendered it indispensable.* By the recent treaty we are to keep a squadron on the coast of Africa. We have kept one there for years; during the whole time, indeed, of these efforts to put a stop to this most iniquitous commerce. The effect of the treaty, therefore, is to render it obligatory upon us, by a convention, to do what we have long done voluntarily—to place our municipal laws in some measure beyond the reach of Congress, and to increase the strength of the squadron employed on this duty."

"But if a British cruiser meet a vessel bearing the American flag where there is no American ship of war to examine her, it is obvious that it is quite as *indispensable* and *justifiable*, that the cruiser should search this vessel to ascertain her nationality, since the conclusion of this treaty as it was before. The mutual rights of the parties are in this respect wholly untouched; their pretensions exist in full force, and what they could do prior to this arrangement they may do now; for though they have respectively sanctioned the employment of a force to give effect 'to the laws, rights, and obligations of the two countries,' yet they have not prohibited the use of any other measures, which either party may be disposed to adopt."

What was opinion, when I wrote, has now become fact.

In all this I beg not to be misunderstood. I do not wish again to subject myself to the charge you made against me of favoring the pretensions of England. That is one of the last offences I desire to commit, or, if I know myself, that I am likely to commit. I think the pretension she advances to search our vessels, and to call this search a "visitation," is one of the most injurious and unjustifiable claims of modern days. I would meet the first exercise of it by war. It leads directly to impressment, and subjects our whole commercial marine to the mercy of a jealous rival. It

is but another step in her march towards universal domination I do not believe our government have acknowledged this claim, or ever thought of acknowledging it. I believe the President and all his cabinet are too honorable and too patriotic ever to harbor a thought of their surrendering one of our proudest national rights. But, as I said before, it is an act of omission and not of commission I censure. It is because a treaty has been made embracing the slave trade, and because no security is found there against the exercise of this pretension, which threatened, as the President said in his message, the greatest embarrassment, and was "connected with the African slave trade."

But to return to your charge of my want of good faith in this "tissue of mistakes." In any discussion concerning the origin and nature of the propositions, which led to the 7th and 8th articles of the treaty of Washington respecting the slave trade, you have greatly the advantage over any antagonist. It is a remarkable fact, and without precedent, probably, in modern diplomacy, that not one written word is to be found in the documents relating to this treaty, which passed between the negotiators, and which led to this new and important stipulation. I presume these functionaries met often, and conversed upon the various topics pending between them, and then some protocol of their meeting, or some correspondence, was prepared, embodying their views. One would suppose that this course was necessary, as well for themselves, as for the information of their governments, and, I may add, in the case of the American negotiator, for the information of the people—equally his sovereign and the sovereign of the government he represented—was all this omitted, or has it been suppressed? As was said by a senator from Pennsylvania, in the debate upon the ratification of the treaty, and said with as much beauty, "The tracks of the negotiators were upon sand, and the returning tide has effaced them forever."

In the question relating to impressment there is no such reserve. We have a letter on that vital subject from each party; and yet this correspondence led to nothing; and when it was prepared, it would lead to nothing. Why it is there, it passes my comprehension to judge. When, in conversation with the British negotiator, you found he was not prepared to make any concession upon this subject, why introduce it at all, and give his government another opportunity to assert its pretension, and to avow its determination to enforce it? What was gained by this? You could hardly expect to shed new light upon a question discussed by Jefferson and Madison; and you could hardly expect, that any declaration of resistance to the practice could be more emphatic, than the resistance of the last war, and the numerous remonstrances against the doctrine with which our diplomatic history abounds. An important subject is introduced into the treaty without any discussion; and another, still more important, is discussed without introduction, and with the full knowledge that it would not be introduced.

Allow me again to spread before you the paragraph you quote, and which contains the "tissue of mistakes," which occupies so conspicuous a place in your letter:

"But England then urged the United States to enter into a conventional arrangement, by which we might be pledged to concur with her in the measures for the suppression of the slave trade. Till then we had executed our own laws in our own way; but, yielding to this application, and departing from our former principle of avoiding European combinations upon subjects not American, we stipulated in a solemn treaty that we would carry into effect our own laws, and fixed the minimum force we would employ for that purpose."

This is the whole charge, as you make it. This is the paragraph in reference to which you say "the President cannot conceive how you should have been led to adventure upon such a statement as this." Now let us analyze this matter, and see if it is as "startling" as you suppose. How many facts are here stated? and, of these, how many are denied or doubted?

First. England urged us to make a treaty for the suppression of the slave trade.

Second. We yielded to this application.

Third. Before then, we had executed our own laws in our own way.

Fourth. We departed thereby from an old principle of avoiding European combinations upon subjects not American.

Fifth. We stipulated we would carry into effect our own laws.

Sixth. We fixed the minimum force we would employ for that purpose.

Here is the whole indictment. Now for the defence.

I suppose I may pass over the second fact. It depends entirely upon the first, and is, in truth, a part of it. If England urged this treaty upon us, and we thereupon assented to the negotiation of it, we of course yielded to the application. I suppose I may pass over the third fact: no one will dispute its truth. Or, if it is denied, let it be shown when, before now, our laws were enforced by virtue of treaty stipulations. I suppose I may pass over the fourth. It is matter of opinion, as I said in my former letter—of inference. No one can place it in that category of facts, for the truth of which he who advances them is morally responsible. You say that the suppression of the slave trade is interesting to the United States; and that therefore we have not departed, in the formation of the treaty, from the wholesome maxim of non-combination. I say it is interesting, also, but that our duties can be fully performed without any European combination; and that such a mutual arrangement is injurious, and violates one of the articles of our political faith: and, in proof of the danger of these arrangements, I refer to the "perpetually recurring difficulties, which are presenting themselves in the execution of the conventions between France and England upon this subject." I suppose I may pass over the fifth

fact, for no one can question that, by the treaty, we do stipulate to carry into effect our own laws. The eighth article expressly declares that the object is to "enforce the laws," &c., of each of the two countries. I suppose, also, I may pass over the sixth fact, for the same eighth article provides that the squadron to be employed in suppressing the slave trade shall "carry in all not less than eighty guns." Here is the minimum. We thus removed five of these condemned facts from the act of accusation. There remains one to support the charge you have made, and to justify the unqualified language you have employed. And what is this solitary proof of my bad faith? Here it is. I said that England had urged our government to enter into stipulations for suppressing the slave trade, to which we had yielded. I am "startled" myself at the importance you attach to my views of this matter, and to the gravity of the proof these have led to. I have already remarked, that all the world supposed Lord Ashburton came here with propositions upon this, as well as upon some other subjects, in dispute between the two governments; and, at the moment I am writing, I find in the papers an extract of a letter from Mr. Everett to you, presented to the House of Representatives by Mr. Cushing, which fully confirms my previous impressions. In that letter Mr. Everett says, he was told by Lord Aberdeen, on the 27th of December, 1841, that Lord Ashburton was going to the United States "with full power to settle any point in discussion, imbodying what was called the right of search, which was the most difficult." And another incident comes opportunely to confirm all this. It is the statement of a senator, who, from his position, ought to know the circumstances, and who, from his high character, is entitled to all credit. Colonel King said, in the senate, on the 23d ultimo, speaking of the claim to visit our vessels, "It was intolerable." Here, then, was a direct point of collision, and that was what brought Lord Ashburton to this country with the view of adjusting this difficulty.

I may express the surprise I felt when I read the following paragraph in your last letter, urged with as much emphasis, as though the merits of the treaty, and of our whole controversy, turned upon this point. Truly, when such undue importance is given to a topic, so little meriting it, when its discussion occupies seven folio pages of your last letter, and three pages of its predecessor, and when the view you present is most elaborately prepared, I may well presume that a substantial defence of your various positions is not easily found. This is the paragraph:

"Suppose your letter to go before the public unanswered and uncontradicted; suppose it to mingle itself with the general political history of the country, as an official letter among the archives of the Department of State; would not the general mass of readers understand you as reciting facts, rather than as drawing your own conclusions? as stating history, rather than as presenting an argument? It is of an incorrect narrative that the President complains;

it is that, in your hotel in Paris, you should undertake to write a history of a very delicate part of a negotiation carried on at Washington, with which you had nothing to do, and of which you had no authentic information; and which history, as you narrate it, reflects not a little on the independence, wisdom, and public spirit of the administration."

Strange, indeed, that this "history," and "narrative," and "delicate part of a negotiation," &c., &c., &c., are to be charged to a simple suggestion, or assertion if you please, that Lord Ashburton came over to make propositions to the government, respecting the slave trade, which were accepted.

But, before quitting this topic, I shall appeal to your own authority. You remarked to me, in your letter of November 14th, that "the United States yielded to no application from England. The proposition for abolishing the slave trade, *as it stands in the treaty*, was an American proposition: it originated with the executive government of the United States, which cheerfully assumed its responsibility." You remarked, in your letter of December 20th, "Now, the English minister no more presented the subject for negotiation, than the government of the United States presented it; nor can it be said, that the United States consented to its introduction, in any other sense, than it may be said, that the British minister consented to it." All this is too diplomatic for me. I can neither clearly comprehend what is meant in the last quotation, nor, so far as I comprehend it, can I reconcile it with the other. Whether either fairly contradicts my suggestion, that the introduction of the slave trade stipulation into the treaty, was due to the application of England, I leave to those, who are more competent to judge your language than I am, to determine. At first, it is a guarded proposition, that the provision, as it stands in the treaty, is the work of the American government; and, at last, this provision owes its paternity, as much to one government as to the other.

But I may well appeal to your own candor to say, if the special pleading in the first quotation meets the issue between us. I said we consented to the introduction of the slave trade stipulation into the treaty, upon the application of England, and you do not spare your reproof for this assertion, through ten pages of your letters, because the proposition, *as it stands in the treaty*, was an American proposition.

But, if you mean by all this, that Lord Ashburton did not make any proposition to our government upon this subject, but that you pressed it upon him, as you would seem to intimate, in order to repel the suggestion I made, then I must be permitted to say, that there is nothing more extraordinary in all our diplomatic history. I shall not enlarge upon this topic, but merely ask, what benefit an American negotiator saw for his country in this arrangement connecting us with another nation, and exposing us, both in prin, ciple and practice, to consequences, which human sagacity cannot

even conjecture? I will ask, in the words of the President's message, *what adjustment of a difficulty of great magnitude and importance*, in relation to this matter, took place, if it was not this very question? What other "embarrassment (still in the words of the message) was connected with the African slave trade?" Both Lord Palmerston and Lord Aberdeen, in 1841, expressly disavowed the right to search American vessels, with a view to prevent their engaging in the slave trade. They both declared, and Sir Robert Peel repeated the declaration in his late speech, (I quote the words of the last:) "The right of search, connected with American vessels, we entirely disclaim. Nay, more; if we knew that an American vessel was furnished with all the materials, requisite for the slave trade, &c., still we should be bound to let that vessel pass on." And that our government knew these views, is distinctly stated by the President, in his message, who says that Lord Aberdeen "expressly disclaimed all right to detain an American ship on the high seas, even if found with a cargo of slaves on board, and restricted the pretension to a mere claim to *visit and inquire*." This claim, the President adds, "was regarded as the right of search, presented only in a new form, and expressed in different words, and I therefore felt it my duty to declare, in my annual message to Congress, that no such concession could be made; and that the United States had both the ability and inclination to enforce their own laws," &c. I repeat, then, what other point remained to be *adjusted* upon this general subject, but this very claim of *visitation?* and if this was not adjusted, as it is now clear it was not, what "adjustment" did take place? And why was the stipulation introduced into the treaty, as though we could not keep a squadron on the coast of Africa, and execute our own laws, without binding ourselves in a solemn convention with Great Britain to do so? And all this you intimate, without even a request on her part!

I here close this controversy; and I shall close the correspondence by a few remarks upon the serious position, in which our country is now placed. It affords me no pleasure to find that all I foretold respecting the course of the British government, in relation to this pretension to search our ships, has been signally confirmed by the recent declaration of Sir Robert Peel. The accomplishment has soon, too soon followed the prediction. I said, in my letter to you of February 15th, 1842, as I have already stated, that England rarely, if ever, abandoned a pretension, and that in my opinion she would enforce this. And in my letter to you of December 11th, 1842, speaking of the probability that she would carry into effect her doctrine, I said: "That she will do so when her interest requires it, I have no more doubt than I have that she has already given abundant proofs, that the received code of public law is but a feeble barrier, when it stands in the way of power and ambition. Both Lord Palmerston and Lord Aberdeen tell us she will." And now, a greater than either has said so, and, as the

London *Times* expresses it, he has said it in the most emphatic manner. And what, then, is our position? Sir Robert Peel has declared that the British government never will relinquish this claim to *search* our vessels, calling it a *visitation;* and the London *Times*, the great exponent of the principles and purposes of the English government and aristocracy, said, on the 31st of last December, a month before this declaration, that, "England has not abandoned one tittle of her claim (to search our vessels;) the treaty does not afford the smallest presumption, that she has; and the United States would find that the right would continue to be unflinchingly, (aye, that is the word,) unflinchingly exercised." And it adds, that this "essential right of the British navy" would never be relinquished. Sir Robert Peel is a cautious statesman. He does not deal in abstractions. He does not make declarations in the face of the world, to remain inoperative, particularly when such declarations are cheered by both sides of the House, in a manner to show, beyond a doubt, that they are responded to by the public feeling of the country. And the *Times*, well informed of the views of the government a month before they were communicated to the nation, would not have said that *the right would be unflinchingly exercised*, if it were to remain a dead letter.

We all know to what this pretension leads, and to what it is intended to lead: that it will virtually subject our whole commercial marine to the English navy. It is an insult to the common sense of the world to talk about a difference, in their effects, between a search for one purpose, and a search for another; and to call a search to ascertain the character of a vessel, and to carry her in for condemnation—at the will of a midshipman, perhaps, if he believes, or affects to believe she belongs to one country and claims to belong to another—to that great gulf, always ready to swallow American property, a British court of admiralty—to call, I say, such a search a *visitation*, and, by this change of name, to justify the pretension—all this was reserved for the nineteenth century. For, what is a "visitation?" It is not enough to look at the flag; for any "bunting," as Lord Palmerston calls it, may be hoisted. It is not enough to look at the men, for all marines contain foreigners, as well as natives. It is not enough to look at the papers, for these may be simulated. It is not enough to look at the log-book, for that may be false or forged. It is not enough to look at the cargo, for that proves nothing. But it is obvious, that all these will be looked at to satisfy the inquisitor and his inquisition.

The London *Sun* said, last year, very justly, "If the Americans sanction the examination of their ships, for the mere purpose of ascertaining if a vessel bearing the American flag is *bona fide* an American vessel, they sanction a rigid examination of the vessel herself." And it is to be borne in mind, that the right to examine presupposes the right to send in, if the examination is not satisfactory to the officer, and to condemn if not satisfactory to the judge. What follows, let our history from 1793 to 1815 tell.

But this is the least injury, sought to be entailed upon us. Heretofore, agreeably to her own doctrine, England could only impress our seamen in time of war; for she claimed the right to board our vessels, merely as a belligerent right, which ceased when she was at peace. And she conceded—and so said the Prince Regent, in his celebrated declaration of January 9th, 1813, in answer to the manifesto of the American government—that a British cruiser could not board an American ship for the purpose of impressment; but that, having once entered under a legal right, then the boarding officer could seize whoever he pleased, to be transferred to a foreign navy, there to fight against his own country. Now, the British government has devised a plan, by which our vessels may be boarded in time of peace, and thus the whole seamen of the United States may be placed at the disposition of England, in peace and war.

We now understand the full value of impressment, and why Lord Ashburton would not relinquish it; and we understand what the London *Times* means, when it says that "this right of visitation, which is to be 'unflinchingly exercised,' is essential to the British navy."

No pretension, in modern times, has advanced more rapidly than this. It is but a year or two since Lord Stowell, the well-known English admiralty judge, solemnly decided that "no nation can exercise a right of *visitation* (mark that word) and search upon the common and unappropriated part of the ocean, except upon the belligerent claim." And still later, the Duke of Wellington said, in the House of Lords, "that if there was one point more to be avoided than another, it was that relating to the *visitation* of vessels belonging to the (American) Union." The first time we heard of this pretension, as a serious claim, was from Lord Palmerston on the 27th of August, 1841, and the next was from Lord Aberdeen on the 13th of October following; and it was then put forth as "indispensable and justifiable," in the execution of certain slave trade treaties, formed with the "States of Christendom." Now, the British government claim that it has become a settled part of the law of nations. And our ships are to be searched, says Sir Robert Peel, to ascertain if a "grievous wrong has not been done to the American flag." This is really one of the most extraordinary assumptions of modern days. Our flag is to be violated, to see if it has been abused! The whole country knows where the "grievous wrong" would be, if this principle were carried into practice.

It becomes every American to ask, if he is prepared to yield this right of search. For myself, I think it is better to defend the outworks, than the citadel; to fight for the first inch of territory rather than for the last; to maintain our honor when attacked, rather than to wait till we have none to be attacked or maintained; and such, I trust and hope, will be the unwavering determination of the government and of the country.

What I anticipated, when I commenced this letter, has come to pass. The documents called for by Colonel Benton have been sent into the Senate, as I perceive by the last papers. Your recent letter will now go out with the others, and reach the American people. I have no means of clearing myself from the difficulties you have spread around me, but by submitting my views, as you have submitted yours, to the decision of the country. I am now a private citizen. Twice, since I became such, you have presented to me, in elaborately prepared documents, your sentiments upon some important topics, arising out of the late treaty. These documents now make part of the political history of the country. There are, therefore, no considerations of duty nor of propriety to restrain me from appealing to the same great tribunal to judge between us: from endeavoring to redeem myself from some severe charges you have made against me. I have been written *at*, but the public have been written *to*. I shall, therefore, not hesitate to authorize the immediate publication of this letter, being little disposed to leave it to be buried in the archives of the Department of State.

At the moment of signing my letter, the President's message of February 27th, 1843, respecting the treaty of Washington and the right of search, has reached me. I think every American should go with the President in his reprobation of this doctrine. I refer, however, to the message, to say, that had it been in my possession when the body of this letter was prepared, I should have quoted it instead of quoting the other messages, because in this the views are more elaborately prepared than in those, showing that the claim of *visitation* was perfectly comprehended by our government when this treaty was negotiated; that it was denounced as wholly inadmissible, and that the treaty was supposed to have made "a practical settlement of the question."

One or two reflections force themselves upon my mind, which I shall submit to you, even at this late moment.

In the first place, this claim to search our vessels, under the pretence of *visiting* them, though connected in its origin, or rather announced as connected, with the African slave trade, is co-extensive with the ocean. The principle, upon which it rests, so far as it rests on any, are of universal application. For, wherever a British cruiser meets a vessel bearing the American flag, such cruiser may wish to know if a "grievous wrong" has been committed, and whether she is truly what she appears to be.

Such are the necessary consequences of this doctrine, and such we now ascertain is the extent to which it is to be pushed. It is distinctly announced by Sir Robert Peel, in his late speech, that this right of visitation is not necessarily connected with the slave trade, and this is confirmed by the *Times*, which says, "that this right has obviously no intrinsic or neccessary connection with the slave trade," and "that it is a part of the marine code of nations."

How, then, could a conventional arrangement, obliging us to

keep a squadron upon the coast of Africa, guard against its exercise, or "supersede," in the words of the message, "any supposed necessity, or any motive, for such examination or visit?" Again, How could it guard against these effects, even if the operation of the doctrine were limited to search or visitation in slave trade latitudes? England said to us—We have made a treaty with France, by which we have a right to search her ships, and to send them in for condemnation, if they are engaged in the slave trade. If we cannot search your ships, we cannot execute this treaty, because a French vessel, by hoisting an American flag, will place herself beyond the reach of our cruisers; therefore we shall *visit* your ships.

Now, it is manifest, that our squadron upon the coast of Africa, will not change in the slightest degree this state of things. A French vessel may still hoist the American flag, and thus protect a cargo of slaves, so far as this protects it, in any part of the great ocean, from the African coast to the coast of Brazil. Is this squadron of eighty guns, or is any vessel of it, to be every where? And where it is not, what will prevent any ship from placing an American flag at its masthead?

I am stating, not defending, the British doctrine, and I do not enter here, into those obvious considerations, which demonstrate its fallacy and injustice. This I have attempted elsewhere, but with what success it does not become me to judge. I attempted to show, that because any of the "States of Christendom" choose to form treaties for the attainment of objects, military, commercial, or *philanthropic*, such mutual arrangements give them no right to change the established laws of nations, and to stop and search our vessels upon the great highway of the world. It is the slave trade to-day, but it may be the sugar trade to-morrow, and the cotton trade the day after. But besides, it is obvious that all cases put by the British political casuists, in support of this new doctrine, are mere questions of identity, where he who does the deed and boards the vessel acts, not upon his right, but upon his responsibility, and, like the sheriff who arrests a person upon a writ, is justified, or not, according to the result.

But it is clear, that this claim, as asserted, is not at all inconsistent with our new treaty stipulation; that this stipulation does not render unnecessary the exercise of the claim; and, therefore, that as it does not expressly, so neither does it by fair implication, "make a practical settlement" of the question; nor does "the eighth article" remove "all possible pretext, on the ground of mere necessity, to visit and detain our ships upon the African coast, because of the alleged abuse of our flag by slave traders of other nations."

Very respectfully, &c.,

LEW. CASS.

Hon. DANIEL WEBSTER,
Secretary of State, Washington.

The apprehensions entertained by Gov. Cass, were realized by the construction which the English ministry gave to the treaty, on this point of negotiation. They insisted, that by the treaty no concession had been made by England of her claim of right to stop and search our vessels. This was the objection urged by Gov. Cass, and the nation against which he was directing his efforts, through her ministry, singularly confirmed his argument, in opposition to the ground assumed by Mr. Webster. The question was left, by the treaty, in the condition in which the negotiation found it. The parties to it, differed in their understanding of its meaning, and the British government made no secret of its intention to deny the construction placed npon the treaty by the United States government. It distinctly said, that the right of search never formed the subject of discussion during the negotiation, nor was any concession required by the United States or made by Great Britain. In this discussion Gov. Cass took, from the first, high grounds, and successfully maintained them. He demonstrated the inutility of insisting that a concession had been made, when, in fact, there was none. "Let us," said he, "abandon all profitless diplomatic discussion, and, strong in our rights, let us meet the first violation of our flag, which is committed by order of the British government, as nations ought to meet systematic attacks upon their honor and independence."

"I trust," said he, on another occasion, "we shall resist this monstrous pretension, to the last extremity; *if, in doing so, war comes, let it come*—there are evils greater than war, and a nation which abandons its honor and forfeits its self respect, must become the reproach of its cotemporaries, and its name a bye-word to posterity."

Beyond question, Gov. Cass established the fact, that Great Britain, in seeking to obtain the ratification of the quintuple treaty, had, especially, if not solely, in view the enslavement of the trade and commerce of the world, and to subject them to her control, and make them tributary to her aspiring greatness. How much, then, do we, as Americans, owe; how much does the world not owe to the decisive action of Gov. Cass, which protected their rights from being swallowed in the rapacious maw of an ambitious and grasping nation?

Mr. Webster, though so formidable an antagonist, was completely overwhelmed by the force of argument brought against his treaty, by Gov. Cass. The letter of Gov. Cass, dated March 7th, 1843, was never answered by Mr. Webster. He merely informed Gov. Cass, in a brief note, that he had cursorily glanced at a portion of it, and, after more attentive perusal, if occasion required, he would reply to it at length. This he never found "occasion" to do. To this day, the reasoning and argument of Gov. Cass stand without even an attempt at refutation from the great negotiator and constitutional expounder.

The discussion with Mr. Webster, had the happy effect of placing Gov. Cass, in his true light, before his country. His fellow citizens admired his boldness and skill, in baffling the schemes of Great Britain; and they sustained him in his objections to the treaty of Washington. With their approbation cheering him, he could well bear with composure the attacks of his political opposers and the vulgar vituperation and abuse of foreign peers and presses.

CHAPTER XI.

Gov. Cass' opportunities for acquiring knowledge of the schemes of diplomatists—His success in thwarting their plots against the welfare of his country—His return to the United States—The reception given to him by the people of Boston—Letter from Gen. Jackson—The welcome extended to him by the citizens of the towns and villages through which he passed on his journey to Detroit—His letter to the Committee of the Democratic Convention of Indiana—Gen. Cass regarded by the people as a Candidate for the Presidency—Public opinion, The annexation of Texas—Gen. Cass' letter advocating annexation, The Baltimore Convention of 1841—Gov. Cass' letter read in that Convention—His name withdrawn for the sake of union and harmony—Nomination of James K. Polk—Gov. Cass supports the nomination—Meets his fellow citizens in various parts of the country and advocates the election of Mr. Polk—Great Democratic victory.

Gov. Cass from his position in public life has enjoyed opportunities of acquiring a thorough knowledge of the schemes and plans, formed by European Cabinets to promote their particular aggrandizement. His accurate perception and tact has enabled him on more than one occasion, to frustrate the deep laid and well disguised plots of the most celebrated and able diplomatists of Europe. Men of all political parties in the United States, with some few exceptions, have been forced by the palpable, self evident benefits derived from his services, to award to him the credit of obtaining them, when from political prejudice, they would gladly have withheld their admission. The gratification of receiving an approving voice from his political opponents, has been enjoyed by Gov. Cass, to an extent, unequalled in the career of any other eminent citizen of the Republic, since the days of Washington.

He was greeted on his arrival in this country, by the applauding voice of his countrymen, without distinction of party. He was regarded and treated as the man of the nation. His "faithful services and energetic proceedings at an important crisis in his distinguished mission" to use the language of the citizens of Boston, had endeared him to every American heart, whose feelings sought expression in some public acknowledgement of their gratitude. There was all over the country a spontaneous exhibition of admiration and esteem, for the man who unawed by the

potentates of the old world, stood forth, even then unsustained by his own government, their single opposer, when they attempted to interpolate in the maritime law of the world, their selfish conceptions of their own interests, involving an outrage upon the American flag, and an infringement of the rights of American Seamen. It was truly a sublime spectacle, and the people loved to picture it before them, when the plain and unostentatious representative of this free Republic, at the proudest Court of Europe, surrounded by the noble, and learned, and experienced ministers of the Great Powers—arose in the might of the great principles he advocated and said to them in the thunder tones of an American freeman "my Country will have none of this—she will *never* submit to have her ships stopped on their course by *any or all* of the nations of the world."

The following letter signed by numerous distinguished citizens of the New England Metropolis is but one of hundreds of similar expressions of public opinion.

"Boston, Dec. 7, 1842.

Sir:—The undersigned citizens of New England, would congratulate your Excellency on your safe return to your native country *after your faithful services and energetic proceedings at an important crisis in your distinguished mission;* and respectfully request that you will give them and their fellow-citizens an opportunity of expressing personally the high respect which *your public career* and private virtues have uniformly inspired.

"Returning as you do with the approbation of that generous people, who were the first, and for a long time, the only friends of our fathers, we should prefer that the meeting should be at such a time as would suit your convenience, in Faneuil Hall,—the spot in which of all others, Americans would desire to welcome her deserving ones.

"We are, with sentiments of the highest consideration, your Excellency's most obedient servants.

It is a remarkable fact, and one which so seldom exists in the career of public officers, that it excites our surprize when it occurs, that in regard to Gen. Cass no objection was ever made to the manner in which he conducted the most difficult and intricate functions of the numerous offices, which he filled. Seven times in succession and under four successive Presidents, he was nominated Governor of Michigan, and seven times confirmed by the United States Senate without a single vote against, or a single represen-

tation against him from the hardy pioneers over whom he presided.

The venerable occupant of the Hermitage, whose personal interest in the success of Gov. Cass, was amply satisfied by its results, addressed the following letter of warm approval to the Gov.

To the Hon Lewis Cass:—

Hermitage, July 1843.

My Dear Sir:—I have the pleasure to acknowledge your friendly letter of the twenty-fifth of May last. It reached me in due course of mail: but such were my debility and afflictions, that I have been prevented from replying to it until now; and even now it is with difficulty that I write, In return for your expressions with regard to myself, I have to remark, that I shall ever recollect, my dear General, with great satisfaction, the relations, both private and official, which subsisted between us, during the greater part of my administration. Having full confidence in your abilities and republican principles, I invited you to my Cabinet; and I can never forget with what discretion and talents you met those great and delicate questions which were brought before you whilst you presided over the department of war, which entitled you to my thanks, and will be ever recollected with the most lively feeling of friendship by me.

But what has endeared you to every true American, was the noble stand which you took, as our minister at Paris, against the quintuple treaty, and which, by your talents, energy, and fearless responsibility, defeated its ratification by France—a treaty intended by Great Britain, to change our international laws, make her mistress of the seas, and destroy the national independence, not only of our own country, but of all Europe, and enable her to become the tyrant on every ocean, Had Great Britain obtained the sanction to this treaty, *(with the late disgraceful treaty of Washington*—so disreputable to our national character, and injurious to our national safety) then, indeed we might have hung up our harps upon the willow, and resigned our national independence to Great Britain. But, I repeat, to your talents, energy, and fearless responsibility, we are indebted for the shield thrown over us from the impending danger which the ratification of the quintuple treaty by France would have brought upon us. For this act, the thanks of every true American, and the applause of every true republican, are yours; and for this noble act I tender you my thanks.

Receive assurance of my friendship and esteem.

ANDREW JACKSON.

In the principle cities and towns of the Union, the presence of Gov. Cass, created a desire among all classes, to see and talk with the man who had by his straightforward advocacy of freedom and republicanism, drawn the claws from the feet of the British Lion. His visit to Washington, immediately on his return, created great

sensation there, not only among the the people, but among the leading politicians of the land. They saw, the future President of the United States. They felt, that sooner or later, Lewis Cass, would be the Chief Magistrate of this Union. Remaining in Washington until nearly the close of January, Gov. Cass then left on his journey homewards to Detroit. His route was through Pennsylvania and Ohio, in accordance with the expressed wishes of the citizens of those states, who wished to receive and take by the hand, the man who led their volunteers to war in 1812, and who, thirty years afterwards, again baffled the same foe against the liberties and rights of his country, whom he assisted, to overthrow on the banks of the river Thames. His route was one continued scene of triumph, the more grateful as it was the spontaneous, unsolicited oblation of gratitude and esteem, to one who was then a private citizen, without the attractions or the power of high official station. As Gov. Cass approached the boundaries of his own state, the people became enthusiastic in their preparations to receive him. The municipal authorities, and literary and mechanical associations, united with private citizens, to show, in an impressive and becoming manner, their appreciation of the benefits, they as citizens had received from his services.

The citizens of Detroit were stimulated by emulation in their arrangements for his reception. A committee proceded by rail road to meet the Governor at Ypsilanti, and escort him to the city. They arrived at the depot in Detroit, on the fourteenth of February, about two o'clock in the afternoon. Here they were met by a large concourse of citizens, who, with the Governor of the state, members of the legislature, the military and civic associations had assembled to welcome home, their friend and fellow citizen. The proceedings were alike creditable to the people, and gratifying to the object of their attentions. Dr. Houghton, the Mayor of Detroit, in behalf of the citizens, received Gov. Gass, with an appropriate address, to which the Gov. replied in a beautiful and touching manner, alluding to his early connection with Michigan, when though he had the misfortune to behold a foreign flag replace that of our own upon the site of our beautiful city, it was permitted him in the Providence of God, to aid in the expulsion of the enemy and erect again the national banner over our city and strait. He spoke

of the fortitude and fidelity of our early citizens, in braving the evils of those times, and in adhering to their country, when the woes of that period, when danger and suffering and death, were the consequences of their allegiance. Briefly and pertinently touching upon other topics, connected with the history of Michigan, and called to his mind by the scene before him, in contrast with what he had seen and experienced, when war had scattered destruction throughout this region, when the inhabitants were dispersed and impoverished, when there was not a church nor school house, nor a court house, nor a bridge, nor a road in the whole country; when the best part of the territory was in possession of the Indians—he spoke of the welcome his countrymen had given him after seven years absence from his native land. With an emotion that betrayed how deeply he was affected by the congratulations of his friends, he remarked, "from the time I set foot upon my native shore at Boston, to this last manifestation of good will I have to acknowledge the spontaneous proofs of regard, every where shown to me, and the recollection of which will disappear, but with the termination of life."

At the conclusion of the ceremony of reception, Gov. Cass was escorted by the Battalion of Frontier Guards, and a long procession of citizens, to his rooms at Dibble's Exchange.

Circumstances pointed to Gov. Cass, as prominent among the number of eminent statesmen of the country, from whom the selection of chief magistrate would be made. But little more than a year would elapse before a Presidential election would occur. During his absence, several questions of public policy had arisen, upon which the people were divided in opinion, and in regard to which he had enjoyed no opportunity of expressing his views. Having consented, at the earnest entreaty of many influential and patriotic citizens, to become a candidate for the highest office in the gift of the people, he had no reluctance in frankly and openly declaring his opinions. He was addressed on the subject, by a prominent democrat of Michigan, in a letter, containing interrogatories in regard to the leading measures which then agitated the public mind. To this letter he replied with promptness, and in a clear and comprehensive manner laid before the people of the Union his political sentiments. This declaration of principles is a cate-

gorical reply to the inquiries made in the letter. He declared himself to be opposed to the incorporation by government of a National Bank, under any form or pretence whatever: first, because the power to do so is not granted by the constitution of the United States; and, second, because public opinion had pronounced itself against such an institution. On the subject of the Tariff, Gov. Cass' sentiments accorded with those of the great mass of the democrats of the Union. He expressed himself in favor of an economical expenditure—a tariff producing enough, with the sales of the public lands, to meet this expenditure, and so divided among the various articles of importation as to protect our own manufactures by reasonable duties; and within these limits, a practical application of the just principles of free trade to our foreign commerce, seem to him to comprehend the outlines of the duties of the government of the United States upon these difficult topics. He was opposed to the distribution of the proceeds of the public lands among the different States, and in favor of appropriating them to the support of the government.

In regard to his position as a candidate for the Presidency, he declared that he should be bound by the decision of the Democratic General Convention.

A few weeks previous to the publication of the letter just alluded to, the Democratic State Convention of Indiana had solicited the views of Gov. Cass upon the same questions which formed the subject of inquiry in the above mentioned letter. The reply of Gov. Cass was more extended, and his examination of the subject more in detail than on the latter occasion. But at the time when he was written to, by the citizen of Michigan, his letter to the Indiana Convention had not been made public. It was soon afterwards published; and as it discusses in a most admirably lucid manner the different subjects of inquiry, and is so plain and unconcealed an avowal of opinion on measures of great importance to our country, it is here given at length.

COLUMBUS, Ohio, Feb. 8th, 1843.

Gentlemen: Your letter, enclosing the resolutions of the Democratic Convention of the State of Indiana, was addressed to me at Washington, but did not reach that city till after I had left there. It was then forwarded to me at this place, and in consequence of having stopped upon the route, considerable delay has occurred in

its receipt. I make this explanation to account for that delay.

I shall now proceed to answer the questions proposed by the convention, briefly, but frankly; satisfied it will be more agreeable to yourselves, and your colleagues of the convention, that I should be explicit, than that I should be led into tedious dissertations.

With respect to a National Bank, I have to remark, that I have always entertained doubts of the power of Congress to charter such an institution. The indirect process by which this power is deduced from a very general provision of that instrument, has never been satisfactory to me. But there is the less necessity for entering more in detail into the constitutional question, as it seems to me the public voice has pronounced itself, and justly, against the incorporation of any national bank by Congress. No such institution should, in my opinion, be established.

In answer to the second question, which relates to the distribution of the proceeds of the public lands among the several States, I reply, that I think no such distribution should be made. I will state, in a few words, the ground of this opinion. The necessary revenue for the support of the government of the United States, must come from the people, and it must be supplied by direct or indirect taxation, or by the sale of public property. The general sentiment is opposed to direct taxation by the general government in time of peace; and of course there are left but the other two sources of supply to meet its expenses. Their proceeds must constitute the revenue of the country; and if one of them is abstracted or diminished, an additional burthen is thrown upon the other. Whatever sum the necessary expenses of the government may require, if the proceeds of the public lands make no part of it, the whole must be raised by taxation. If they make part of it, then the amount of taxation is diminished by the sum supplied by these proceeds. It follows that any proposition to divert the proceeds of these lands from the support of government is in fact but a proposition to lay taxes upon the people. If a permanent annual revenue of eighteen millions of dollars is necessary for an economical administration of the government, and if two millions of these are produced by the sales of public lands, let the source of this supply be diverted to some other object, and these two millions must be provided by the imposition of taxes. All this is too clear to need further illustration. A proposition then to distribute the proceeds of the public lands among the several States, is, in effect, but a proposition to increase the taxation of the people of the United States through the medium of the general government, in order that the amount, thus increased, may be paid into the treasuries of the respective States. To me it appears perfectly clear that whatever may be the annual sum produced by the sale of lands, that sum is a part of the revenue of the country, and that it is just as competent for Congress to take any other two millions, supposing that to be the amount, from the public treasury, and divide them

among the States, as to select for that purpose the dollars actually produced by the land sales. It seems to me that such a course of action would be injurious in practice, dangerous in principle, and without warrant in the constitution of the United States. The theory of our political institutions, is familiar to us all. The governments of the confederated States have their respective rights and duties clearly defined, and each within its proper sphere, is independent of the others, each raises and expends its revenue, and performs all the necessary functions of a sovereign State. What right has one to interfere with another, unless in cases marked out by the constitution itself? If the general government can provide a revenue for the respective States, and does provide one, it is clear that one great distinctive feature of our political system will disappear, and that the relations between the confederation as such, and the individual States composing it, will be wholly changed. Human sagacity cannot foretel what would be the entire result of this state of things, but it is easy to predict that this new application of the money power would give to the government of the United States a strength never contemplated by the American people, and irreconcilable with our constitutional organization, and that it would lead to a habit of dependence on the part of the States, by which their efficiency to resist any encroachments of the general government would be paralysed. Without pushing these considerations further, I conclude this branch of the subject by repeating, that, in my opinion, no distribution of the proceeds of the public lands should be made.

The subject of the protective tariff has been so long and ably discussed, that it would be useless for me to do more than to give you the result of my views. I think, then, that the revenue of the government ought to be brought down to the lowest point compatible with the performance of its constitutional functions; and that in the imposition of duties, necessary, with the proceeds of the public lands, to provide this revenue, incidental protection should be afforded to such branches of American industry as may require it. This appears to me not only constitutional, but called for by the great interests of the country; and if a protective tariff upon this principle, were wisely and moderately established, and then left to its own operation, so that the community could calculate upon its reasonable duration, and thus avoid ruinous fluctuations, we might look for as general acquiescence in the arrangement, as we can ever expect in questions of this complicated kind, when local feelings have been enlisted, which a prudent legislature must consult, more or less, and endeavor to reconcile.

A proposition to amend the constitution of the United States, is one which I should always receive with great caution. There is already in our country too great a disposition to seek, in changes of the laws and constitutions, remedies for evils to which all societies are more or less liable; instead of leaving them to find their own cure in the operation of the ordinary causes which act upon

communities. It is often better to suffer a partial inconvenience, than rashly to alter the fundamental principles of a political system. Stability is better than change, when change is not decidedly called for. I am not aware that the exercise of the veto power has, for many years, produced any injury to the public service. On the contrary, I think in those cases where it has been recently interposed, it has been properly applied, and that its action has been approved by a great majority of the people. I see, therefore, no practical evil which demands, in this respect, a change in the constitution of the United States. Should cases of that nature occur, it will then be time to seek the proper remedy.

With great respect, gentlemen, I have the honor to be

Your obedient servant,

LEWIS CASS.

To Ethan A. Brown, John Law, Nathaniel West, John Petit, Jesse D. Bright, and A. C. Pepper, Esquires.

Meetings were called in various places throughout the Union, to give expression to the sentiments of the people in regard to a Presidential candidate. In the spring of 1843, a large meeting was held in Cincinnati, at which an address and resolutions were adopted, setting forth the claims of Gov. Cass to the Presidency. Mr. Calhoun, Mr. Van Buren, Mr. Buchanan, Col. Benton, and Col. R. M. Johnson, were among the aspirants for that high station. All of them fully qualified to administer the government with honor and advantage. In canvassing their qualifications, the meeting acknowledged their eminent fitness for the office, but could not avoid the conviction that there was a sectionality, so to speak, attached to each of them, which would not fail to have its influence, when they came before the whole people for their suffrages. To the permanent and complete success of the democratic party, it was deemed necessary to support the man who, in the language of the address, "could go before the American people, commanding the most heartfelt enthusiasm, and combining the most elements of success; and such a man is Lewis Cass—a man who exemplifies in his own person and history one of the best traits of our institutions."

Sentiments similar to these, and assemblages of the same kind, were common throughout the Union. The distinguished object of these manifestations of favor and regard, was at the time quietly and happily residing with his family, in the city of Detroit, and for the first time in thirty years, liberated from the cares and anxieties of public office.

In 1843 and 1844 the public mind became deeply absorbed in the then approaching Presidential election. The opinions of the prominent candidates for the Presidency, on the most important questions of policy, were published, the preferences of the people were ascertained and declared in primary meetings, the contest awakened more than ordinary feeling among all classes of community. The whig party conceiving themselves deceived by the presidential acts of John Tyler, whom they had elected Vice President, with Gen. Harrison, were active and energetic in preparing for the campaign. It was well settled long before the meeting of the National Whig Convention, that the whig party would again bring forward as their Candidate, Henry Clay, who was then universally recognized as the embodiment of the various elements of their party organization. Their success in 1840, stimulated them with the hope that they could again be victorious at the ballot box, even with a candidate who had several times been defeated. The democratic party, surprised by the unexpected success of their opponents were alike active and vigilant. Among so many able statesmen adorning the ranks their principal difficulty was in making the selection of a candidate. It was the general impression that their defeat in 1840 was more justly ascribable to fraud and corruption, to delusion and misunderstanding, rather than an opposition to their principles or a lukewarmness in their advocacy. A portion of the party were of opinion that a severe rebuke should be given to those who had used such unhallowed means to overthrow the democratic party. They deemed that no more unwelcome punishment could be inflicted upon the whig party, or a more effectual vindication of their principles achieved than the election of Martin Van Buren the defeated candidate of 1840. Upon this ground a portion of the democratic party were in favor of again nominating him for the presidency. Politicians declared that the nomination of Mr. Van Buren, would produce in the democratic ranks "ardor and enthusiasm" in his support; that the masses would rally to his support with a spirit and generous enthusiasm that would be resistless. But the masses did not respond to this feeling. They saw Mr. Van Buren distanced in the contest with Gen. Harrison; they saw the man who went into the Presidential chair in 1837 with the democratic party in the zenith of its strength

leave it in 1841 with his party prostrate and powerless. But Mr. Van Buren, numbered among his personal friends, many able statesmen, as well as skillful and accomplished tacticians. Their political talent, their experience in management, their facilities for manufacturing public opinion, and giving a bias to the popular will, were all brought to bear effectually, upon the object, that was nearest their hearts. More than one State Convention, was thus induced to give public and somewhat authoritative avowal to a preference for Mr. Van Buren. Such expression might with reason be regarded as a true exponent of popular feeling and rightly so, where on comparison, with the declarations of the people themselves in their primary meetings, they are found to correspond. But it is far safer to regard the adopted resolves of a delegated body, as more surely indicating the preferences of a majority of the individuals composing it, than those of the mass for whom they are acting. That such was the case, with many of the democratic state conventions of 1844, is abundantly established by the fact, that in many of the states, where a preference for Mr. Van Buren, was thus *Conventionally* declared, the people in their home meetings, then public gatherings and caucuses, in effect nullified the action of their delegates by declaring their choice to be some one of the other aspirants to the same office. The effect, of this difference of opinion was visible, when the National Convention assembled. Delegates who were impliedly bound by the preference of the body which appointed them, voted, in obedience to what they knew to be the popular will, directly in opposition to the expression of the appointing Convention, but in accordance with the wishes and predilections of four fifths of the democracy of the State they represented.

There is a mighty though calm power in the voice of the people. The petty manœuvres of politicians—the intrigues of designing men, no matter how skillfully framed ultimately bend in subjection to its potential demands. It has a force which will not brook resistance. Like truth itself, in its purity and strength, it sooner or later prostrates all opposition.

While the friends of Mr. Van Buren, were actively engaged in creating a public opinion to operate in his favor upon the national convention, the other eminent candidates, remained in dignified

and becoming inactivity, trusting to their own merits as distinguished sons of the Republic, having full confidence in the intelligence and discrimination of their fellow democrats. Gov. Cass, made no personal effort, to increase the favorable estimation he had acquired among the people. Frank and unequivocal declarations of his political sentiments he had cheerfully made, when called upon, and he was satisfied with leaving the decision of the Presidential nomination with the representatives of the democracy.

Not long prior to the agitation of this subject, the administration concluded a treaty with the authorities of Texas whereby she was admitted as one of the states of the Union. Public opinion was divided, though not equally, upon the policy of this measure, and the candidates for the Presidency were interrogated upon their views of this act of the government. A majority of them approved the act. Mr. Van Buren opposed it. The venerable Jackson, though not a candidate for office, came forth from his retirement and energetically advocated the proceeding. But from no one, did the measure meet with more hearty approval, than it did from Gov. Cass. When asked if he was favorable to the immediate annexation of Texas, his reply was "I am." The letter of Gov. Cass, to Hon. Edward Hannegan, declaring his opinion, is unequivocal and determined.

DETROIT, May 10, 1844.

In answer to your inquiry whether I am favorable to the immediate annexation of Texas to the United States, I reply that I am. As you demand my opinion only of this measure, and briefly the reasons which influence me, I shall confine myself to these points.

I shall not dwell upon the policy of uniting coterminous countries situated like ours and Texas, with no marked geographical features to divide them, and with navigable streams penetrating the limits of both. Nor upon the common origin of the people who inhabit them; upon the common manners, language, religion, institutions, and in fact, their identity as a branch of the human family. Nor shall I urge the material interests involved in the measure, by the free intercourse it would establish, between the various sections of a vast country, mutually dependent upon, and supplying one another. These considerations are so obvious, that they need no elucidation from me.

But in a military point of view, annexation strikes me as still more important, and my mind has been the more forcibly impressed with this idea from reading the able letter of Gen. Jackson, upon this subject, which has just come under my observation. With

the intuition, which makes part of the character of that great man, and pure patriot, he has foreseen the use which a European enemy might make of Texas in the event of a war with the United States. A lodgement in that country would lay open the whole South Western border to his depredations. We could establish no fortress, nor occupy any favorable position to check him, for the immense frontier may in a vast many places be crossed as readily as a man passes from one part of his farm to another. The advantages an active enemy would enjoy under such circumstances, it requires no sagacity to foretell.

These considerations recall to my memory an article, which made its appearance just before I left Europe, in a leading Tory periodical in England, which is understood to speak the sentiments of a powerful party. This is Frazer's Magazine, and a more nefarious article never issued from a profligate press. It ought to be stereotyped and circulated from one end of our country to the other, to show the designs which are in agitation against us, and to teach us that our safety in that mighty contest which is coming upon us, is in a knowledge of our danger, and in a determination by union, and by a wise forecast to meet it and defeat it. The spirit of this article is sufficiently indicated by its title, which is "a war with the United States, a blessing to mankind." I cannot refer to it at this moment, but must speak of it from recollection. I have often been surprised it has not attracted more attention in our country. Its object was to excite a war with the United States, and to lay down the plan of a campaign, which would soonest bring it to a fortunate conclusion for England. The basis of this plan was the organization of a necessary black force in the West India Islands, and its debarcation upon our Southern coast. The consequences which our enemies fondly hoped for in such a case, but with an entire ignorance of the true state of the couutry, were foretold with a rare union of philanthropy and hatred. I wish I had the number at hand to cull some choice passages for your reflection. The result was to be destruction of the Southern States, the ruin or depression of the others, and the dissolution of this great and glorious confederacy, on which the last hopes of freedom through the world now rest.

What more favorable position could be taken for the occupation of English black troops, and for letting them loose upon the Southern States than is afforded by Texas? Incapable of resisting, in an event of a war between us and England, she would be taken possession of by the latter under one or another of those pretenses which every page of her history furnishes, and the territory would become the depot whence she would carry on her operations against us, and attempt to add a servile war to the other calamities which hostilities bring with them. He who doubts whether this would be done has yet to learn another trait in the annals of national antipathy. It would be done and would be called philanthropy.

Every day satisfies me more and more, that a majority of the

American people are in favor of annexation. Were they not, the measure ought not to be affected. But as they are, *the sooner it is effected the better.* I do not touch the details of the negotiation. That must be left to the responsibilities of the government, as also must the bearing of the question upon its reception by other countries. Those are points I do not here enter into.

I am, dear sir, respectfully, your obedient servant,

LEWIS CASS.

Hon. EDWARD HANNEGAN.

Under these circumstances, the Democratic National convention met at Baltimore on the first day of May 1844. On the ballotings it appeared that Messrs Van Buren, Cass, R. M. Johnson, Buchanan, Woodbury, Calhoun and Stewart, severally had supporters in the convention. The first two, were the strongest Candidates. The convention adopted the rule of the conventions of 1832 and 1835 requiring the nominee to be chosen by a vote of two thirds of the members of the convention voting. There were two hundred and fifty delegates in the convention and the requisite number of votes for a nomination was 176. On the first ballotting Mr. Van Buren, had much the largest vote, but not within twenty of the required number. As the ballotting proceeded, Cass gained strength and on the seventh ballot received twenty four votes more than Mr. Van Buren. On the eighth ballot, Massachusetts cast five, Pennsylvania two, Maryland one, Alabama nine, Lousiana six, and Tennessee thirteen votes for James K. Polk of Tennessee. The announcement of another and entirely unexpected Candidate for Presidential honors, seemed to present an opportunity to the friends of Cass and Van Buren of selecting a candidate who would be acceptable to the supporters of both those gentlemen in the convention. The convention proceeded to a ninth ballot during which the New York and Virginia delegates withdrew to consult on the best course to be adopted. New York had uniformly and unanimously supported Mr. Van Buren. Virginia had steadily cast her vote for Gov. Cass; upon their return into the convention both States cast their vote for Mr. Polk.

That there might be no obstacle in the way of an unanimous choice by the convention of a candidate. Gov. Cass had authorized his name to be withdrawn. Hon. Edward Bradley a delegate from Michigan announced the following letter to the Convention.

DETROIT, May 19, 1844.

GENTLEMEN :—It is possible, that my name, among others, may come before the convention, which is about to meet at Baltimore. I am at a distance, and can do nothing to meet the contingencies, which may arise during its discussion. You will all do me the justice I am sure, to say that I have taken as little part in passing events, as it was possible for any man, in my position, to take. I have sat still, quietly awaiting the result, and determined to be satisfied with it, whatever that might be.

Though your first choice for President has been directed to the eminent statesman, who has already so ably administered the government, still it is possible that circumstances affecting neither his services nor his merits, may induce you to seek some other candidate, and in that event, if state pride should not supply my other deficiencies and lead your attention to me, it may yet create some interest in my position, and a desire that I should dishonor neither myself, our party nor the state. I have thought therefore I might so far calculate upon your indulgence, as to briefly lay before you my sentiments under existing circumstances, and to ask your aid in carrying my intentions into effect.

I never sought the Presidency of the United States. When in France, I declined being a candidate, in answer to an application made to me by a respectable committee of citizens of Philadelphia. When I returned I found my name was before the country, and the matter seemed to have been taken up by my friends, and to have passed beyond my control. I often regretted this, and frequently vacillated, respecting the course I ought to adopt, till time and events took from me the power of decision. I mention these impressions to show you, that in reaching the conclusion, at which I have now arrived, and am about to announce to you, I have made no sacrifice of feeling, and shall experience no regret,

We cannot shut our eyes to the fact, that dissentions exist in the ranks of our party, which threaten its defeat. Without forming any opinion respecting their origin and progress, their existence is enough to excite the solicitude of all, who believe that the prosperity of the country is closely connected with the success of the Democratic party.

I hope and trust, that a wise spirit of conciliation will animate the Baltimore Convention, and that its decision will restore to us harmony and confidence. But I have determined not to be in the way of this desirable result. And it is the purpose of this letter to announce to you this resolution. Should it be thought by the convention, with reasonable unanimity, that the party had better present my name to the country, I shall submit, and prepare myself for the contest. But if there is such a division of opinion on the subject as to show, that a hearty and united exertion would not be made in my favor, I beg you to withdraw my name without hesitation. We shall need all our force in the coming struggle. If that is exerted, we shall succeed—if not, we shall fail. I will

neither put to hazard the Democratic party, nor have any agency in bringing the election into the House of Representatives, one of the trials to be most deprecated under our Constitution.

These, gentlemen, are my views, and if necessary, I beg you to announce them, and to declare me not a candidate, in case there is not reasonable hope that the party will unite in my favor. I do not doubt, that in such an event my friends will abandon all personal predilection, and prove their devotion to principles, by a zealous support of the nominee of the Convention.

With great regard,
I am gentlemen,
Your ob't servant,
LEW. CASS.

To the Delegates from the State of Michigan, to the Baltimore Convention.

The Convention unanimously nominated Mr. Polk for the Presidency, and subsequently Geo. M. Dallas of Pennsylvania for Vice President.

The proceedings of the Convention, received from Gen. Cass, his sincere and active support. When the result was known at Detroit, the democracy of that ancient city, overlooking their own disappointment in not having their favorite candidate and fellow citizen, presented to them, rallied *en masse* to respond to the nomination. At this meeting Gov. Cass was present and addressed his fellow democrats, enjoining them to support the nominations with their accustomed zeal, and energy. He said "he had come there to take part in the proceedings, to express his hearty concurrence in the nominations made by the Baltimore Democratic Convention, and to announce his determination faithfully to support them. The democratic party had just passed through a crisis which served to prove the integrity of its principle, and the internal strength of its cause. After many differences of opinion, differences however about men, and not measures, the Convention had chosen a man whose private character was irreproachable, and who, in various public stations had given proof of his ability, and firmness and devotion to those principles which the democratic party deemed essential to the prosperity of our own country and the perpetuation of her free institutions. Nothing now is wanting to ensure success, but united exertion, and that we must and will have. Let us put behind us the divisions and preferences of the past, and join in one common effort, to promote the triumph of our cause,

victory is in our power, and let us attain it. Let every one feel, and fulfill his duty."

The efforts of Gov. Cass in support of the nominations were not confined to the vicinity of his home. In the different towns of Michigan, and of other states he met assembled crowds of the democratic party, and encouraged them by precept and example to bring their mighty power to bear with all its strength upon the great point of success in the approaching election. Active co-operation, from Gen. Cass or from any individual holding the relation that that he did to the successful candidate of the convention, was more than was to be expected. But no petty jealousy—no disaffection severed him, a moment from the full and efficient advocacy of the claims of the nominee to the entire support of the democracy. This exhibition of disinterestedness influenced many a wavering democrat, to decide firmly upon adopting the line of duty, and sacrifice his personal inclinations, upon the altar of principle.

The cheerful acquiescence and approval, expressed by the prominent men who were candidates before the convention, in the result of its deliberations, it must be admitted contributed powerfully in securing the success which followed, which elevated to the Chief Magistracy the nominee of the democratic party, by a triumphant majority over the popular and venerable whig leader, Henry Clay.

CHAPTER XII.

Magnitude of questions before Congress—Interest felt throughout the Union, in the election of Senators—The sentiment of the people, in regard to Gen. Cass' election to the Senate—His election by the Legislature of Michigan—His first act in the Senate, evinces his keen watchfulness over the rights and honor of his country—Resolutions of Senator Allen—Gen. Cass supports them—His remarks thereon—The Oregon question—The great interests involved in its settlement—The recommendations of the President—Resolution of Mr. Allen, giving notice that convention of 1827, between the United States and Great Britain, he annulled and abrogated—Speech of Gen. Cass, in regard to our defences—His remarks thereon.

The magnitude of the questions arising in Congress, impressed the public mind with the necessity of having in the Senate of the United States, the first and most eminent men of the country. It was apparent, that with the commencement of Mr. Polk's presidential term, an era in the affairs of the nation would arise, requiring all the skill and experience of our wisest statesmen. The official terms of many senators would expire with the administration of John Tyler. The filling the vacancies thus occurring was a subject of general interest, all through the United States. It was not confined to state limits. Each state felt interested in the choice her sisters in the confederacy might make. The term of Hon. Augustus S. Porter, of Michigan was one of those which would terminate in March, 1845. In regard to who would be his successor there was but one sentiment, not only within the the State of Michigan, but elsewhere. The universal choice fell upon Gen. Cass. The legislature of Michigan, at its annual session in January 1845, in compliance with public opinion, elected Gen. Cass, senator for six years ensuing the fourth of March, then next. Every democratic member of the legislature, except two in the senate, voted for him. His election therefore may be said to have been unanimous. He took his seat in the senate at the executive session called upon the inauguration of Mr. Polk.

The first session of the 29th Congress commenced on the first Monday of December 1845. This was the first regular meeting

of Congress under the new administration. The President in his annual message had expressed it to be his determination to carry out the policy of the government, as declared by his predecessors in regard to the interference of foreign powers in American affairs. He said that the people of the United States could not view with indifference the attempts of any European Power to interfere with the independent action of the nations on this continent. The subject was recommended to the attention of Congress, by the President, and Senator Allen of Ohio asked leave to introduce into the Senate a joint resolution declaratory of the principles by which the government of the United States would be governed in regard to the interposition of the powers of Europe in the political affairs of America. The question upon granting leave came up for discussion on the 26th of January, 1846. It was long and ably debated by the most distinguished men in the Senate. Gen. Cass advocated the motion. Messrs. Berrien, Calhoun, Corwin, Crittenden and Webster were opposed to it. Gen. Cass supported the proposition upon the ground that it was the most correct course to pursue in reference to the relations of the United States with England—that this country "could lose nothing at home or abroad, by establishing and maintaining an American policy—a policy decisive in its spirit—moderate in its tone, and just in its objects—proclaimed and supported firmly, but temperately." Advocating the motion he said:—

"But what is proposed by this resolution? It proposes, Mr. President, to repel a principle which two of the greatest powers of the earth are now carrying into practice upon this continent, so far as we can discover any principle involved in the war which the French and British are now waging against Buenos Ayres; and a principle solemnly announced by the French prime minister in the Chamber of Deputies, clearly in doctrine, but cautiously in the remedy. I need not advert to the declaration made upon that occasion by M. Guizot, a declaration equally extraordinary and memorable. An honorable member of this body has the debate in full; and I trust that, in the further discussion which this subject must undergo, and will undergo in this body in one form or another, he will read the remarks of the French premier, and give us the able views I know he entertains of them. I will only add that these remarks are eminently characteristic of a peculiar class of statesmen, who are always seeking some new and brilliant thought, something with which to dazzle the world as much as it dazzles themselves—some paradox or other as a shroud wherewith to wrap

their dying frame. Plain common sense, and the true condition of men and communities, are lost in diplomatic subtleties.

But what is this balance of power which is to cross the Atlantic and take up its abode in this New World? It is the assumption of a power which has deluged Europe in blood, and which has attempted to stifle the first germs of freedom in every land where they have started up; which has blotted Poland from the map of nations; which has given a moiety of Saxony, in spite of the prayers of the people, to Prussia; which has extinguished Venice and Genoa; which added Belgium to Holland, notwithstanding the repugnance of its inhabitants, who eventually rose in their revolutionary might, and asserted and achieved their own independence; which transferred Norway from Denmark, to which it was attached by old ties and by a mild government, to Sweden, who had to send an army, and to call upon the navy of England to aid her to take possession of this gift of the holy alliance; which keeps Switzerland in eternal turmoil, and which sent a French army into Spain to put down the spirit of liberty, and an Austrian army to Italy for the same purpose; and which watches and wards off the very first instincts of human nature to meliorate its social and political condition.

It is the assumption of a power which enables five great nations of Europe—they are quintuple at present—to govern just as much of the world as will not or cannot resist their cupidity and ambition, and to introduce new principles at their pleasure, and to their profit, into the code of nations. To proclaim that the slave trade is piracy by virtue of their proclamation, and that their cruisers may sweep the ocean, seizing vessels, and crews, and cargoes, and committing them to that great vortex which has swallowed up such a vast amount of our property, and issued so many decrees against our rights—a court of admiralty; and, by-and-by, will enable them to proclaim, if not resisted, that the cotton trade shall be piracy, or that the tobacco trade shall be piracy, or that anything else shall be piracy which ministers to our power and interest, and does not minister to theirs.

I understand the measure proposed by the Senator from Ohio is a protest against the establishment of a new and dangerous principle, affecting ourselves, and with us the other independent nations inhabiting this continent. It does not necessarily involve any question of war. Such a protest is a common mode of procedure in the intercourse of nations. It is the exclusion of a conclusion. It is saying to the world, that the Government making the protest does not recognise a certain claim or principle, and does not intend to be bound by it. It commits such Government to no specific course of action. It merely expresses its dissent, leaving to future circumstances its conduct, should the protest be found inefficient.

I have already alluded to Buenos Ayres, where France and England are now interfering to their heart's content. Their conduct

upon the La Plata is among the most outrageous acts of modern times. If I understand their professions, they wage war against Buenos Ayres, because Buenos Ayres is at war with Montevideo. They are fighting for peace; doing evil that good may come. But what right have they to interfere in the quarrel between two independent nations, except as the friend of both, and in the interest of both? They come not, however, with the olive-branch, but with fleets and armies. They carry on open war; they preach a crusade of philanthropy from the quarter-decks of ships of the line, and from the midst of regiments of soldiers. Now all this is a flimsy veil to conceal far other designs of commercial and political ascendancy upon the immense and productive countries of that great river. They seek the establishment of a balance of power, which shall establish their own power, and enable them to hold in subjection one of the most magnificent regions upon the face of the earth. To give proper weight and solemnity to any measure upon this great question under consideration, requires the action of Congress. The declaration of the President will be as barren as was that of Mr. Monroe unless adopted by the national legislature. The President is the organ of communication with other governments. But the establishment of a great line of policy calls into action powers not committed to him, and which can only be exercised by the representatives of the States and the representatives of the people assembled in Congress.

Mr. President, we shall lose nothing at home or abroad, now or hereafter, by establishing and maintaining an American policy—a policy decisive in its spirit, moderate in its tone, and just in its objects—proclaimed and supported firmly, but temperately. Providence has placed us at the head of the family of nations upon this continent. We have passed safely through the great revolutionary trial from a colonial to an independent condition. We entered upon it with great advantages. The principles of true freedom were brought by our forefathers to the New World, and when the struggle for independence commenced, it found us not only ready for the issue, but ripe for the blessings of self-government. But the colonies of Spanish descent had not served, as we had done, the apprenticeship of liberty; and when they were suddenly called to dissolve their original political connexion, and to reconstruct their civil institutions, they encountered difficulties which seemed at times to threaten the overthrow of all their hopes. Their state of transition is not yet fully over; but they will struggle on till their work is crowned with success. In the meantime, it is equally our policy and our duty to preserve the continent as free from European influence as is compatible with the acknowledged principles of the laws of nations. The community of States inhabiting it have interests of their own, independent of the peculiar state of things which is established in Europe. There is here no question touching the joint rights of others—none of interfering with the colonial possessions of the European Powers—none of denying

their right to establish all the relations of peace they please with this continent, nor of changing these to relations of war when they think just cause of war exists, followed, in that case, by all the rights which a state of hostilities brings with it. But it is a question of applying to America an artificial system built up in Europe within the last century and a half, which the most careless observer of history well knows has neither diminished the number nor the extent of wars, nor increased the stability of independent States, nor promoted the happiness of mankind. A system of power built up in reality for the maintenance of monarchical institutions, under the guise of maintaining a necessary political equilibrium. Now, sir, I hope we shall be satisfied with our own good things, without preaching any system of political propagandism. If other people prefer monarchical to republican institutions, so be it. We have no right to quarrel with their decision, however much we may differ from their views. The world is wide enough for them and us. But we have a right to expect that no undue means be taken, under any pretence whatever, to assail the existing institutions upon this hemisphere, or to exert any influence to change them, or to interfere at all with its political condition. This is the object of the Senator from Ohio; and it is an object worthy of the attention and action of Congress, and of the approbatiou of the country.

Why need we be so peculiarly sensitive upon this question?—for I see it has excited some sensation in various quarters. No one doubts our right to respond to the declaration of the President. No one can dispute its importance. No gentleman, I am sure, upon the floor of the Senate, has the least wish to conciliate England by a self-restraining policy. Mild words, we are told by the wise man, turn away wrath. It may be so; but they never yet turned away cupidity or ambition. I do not see that the English statesmen are very regardful of the feelings of this country, either in the measures they adopt or in the language they employ. Lord John Russell, who has recently been called to the head of the British Administration, but which position he could not hold, in his comments upon the President's declaration respecting Oregon, in April last, called it blustering; and I did not observe that this coarse epithet drew upon the speaker the least censure from Parliament, or the people, or the press. I have seen no such epithet applied here to the language of the British Queen, nor even of the British Cabinet, though my experience tells me that, had such been the case, there is many a journal in this country which would have visited it with strong rebuke. But Lord John Russell lays himself liable to a severe retort when he says, in that very speech: "For my own part, I will say, in all moderation, that I am not prepared to say that this country ought to put forward any arrogant pretensions."

Precious moderation this! What can be more arrogant than to claim moderation because a country is not *prepared to put forward arrogant pretensions?* If this be the moderation of England, what would be her arrogance?

Look at the state of things in Brazil! The treaty between that country and England on the subject of the right of search has expired. But has the right expired also? It has, but not the practice. England yet stops, with the strong hand, Brazilian ships, wherever she finds them in tropical latitudes, and seizes and sends them to her own courts of admiralty for condemnation. And this in utter contempt of all the laws regulating the rights of independent nations.

I allude to all these facts, because they ought to warn us of our duty. I allude to them, in despite of the charge, which has been, and will again be made—out of the Senate, not in it—of a desire to excite undue prejudice against England. I have no such desire. But I have a desire that my own country should be aware of her true position, and should be prepared to meet her responsibility, whatever difficulties may beset her path—prepared, sir, in head, in hand, and in heart. Yes, sir, notwithstanding the severe commentaries which a casual expression of the honorable Senator from Ohio has encountered from a portion of the public press, I will repeat the expression—prepared in the heart. For if war should come, which may Providence avert, I trust the hearts of our countrymen will be prepared for the struggle it will bring. There is no better preparation, nor any surer cause or augury of success.

When I read the President's Message, sir, I found four principal statements or suggestions which seemed to me to render our relations with England exceedingly critical; so critical, indeed, as to demand the immediate attention and action of Congress, and the solemn consideration of the country. The President stated, in effect, that the negotiations with England on the subject of Oregon were closed; that we had a clear title to the whole of it; that the year's notice for the termination of the convention ought be given; and that we should then take exclusive possession of the whole country. I do not quote the words, but these are substantially the views of the President. Now, sir, it was clear to me that here was a state of things which might well excite the solicitude of any man in the unprepared condition of the country, and yet what vials of wrath have been poured out upon the heads of all the Senators whose measures really tended to avert war by preparing for it. The mails are loaded with abusive anonymous letters, because they believe the country is in danger, and believing so, say so, and thus saying and believing, strive to prepare for the worst, still hoping, though sometimes against hope, for the best.

I expressed my approbation of the President's Message; but on the subject of the state of the country, I did not say one word more than I intended and intend now. I am no lover of war. I am no seeker of it. But I have to learn that it is hastened by adequate preparation. I have passed through one war, and hope never to see another. Still I shall never cry peace, peace, unless I believe there is truly peace. The honorable Senator from Kentucky, whom I first met many years ago, marching to the battle-field, and

who will always be found on the side of his country, supposed, when the question of the national defence was under discussion, I had said war was inevitable. He misunderstood me. I considered the danger of war imminent, not inevitable. Had I thought it inevitable, I should not have submitted propositions for inquiry, but decisive measures for adoption. I hold on firmly, sir, to every word I said before, neither softening nor explaining; but denying, because I apprehended we might have war, therefore I desired it. And I still consider danger imminent, not diminished, so far as I know, by the recent arrival. The subject in controversy remains precisely as it was. The question was, and is, whether we shall surrender to the British demands, or whether the British Government shall surrender to ours. If no such cession is made by either party, the two countries will be brought into conflict. I see no indication that one or the other will sufficiently yield.

It is not men, but fears and facts, that make panics in this country, if I must adopt that word. But I repudiate it as applicable to the great body of the American people. They feel no panic They feel anxiety, no doubt, but determination also—a hope that England will do us justice, and, if not, a determination to do justice to themselves.

I must ask the indulgence of the Senate for alluding to this topic at this time. I do so with the deep conviction that all other legislative measures should give way to measures of defence, and in the hope that such will be the action of Congress. Then, if war comes, we shall have no self-reproach to meet, and if peace is preserved, what we do will be well done for a similar future contingency, which no nation can expect long to avoid."

The motion was adopted and leave granted to the senator from Ohio to introduce the proposed resolution. The resolution in substance provided that, Congress, concurring with the President, and sensible that a time had arrived when the government of the United States could no longer remain silent without being ready to submit to, and even to invite, the enforcement of the dangerous European doctrine of the "balance of power," solemnly declare to the civilized world the unalterable resolution of the United States to adhere to and enforce the principle, that any effort of the Powers of Europe to intermeddle in the social organization or political arrangements of the independent nations of America, or further to extend the European system of government upon this continent by the establishment of new colonies, would be incompatible with the independent existence of the nations, and dangerous to the liberties of the people of America, and therefore would incur, as by the right of self-preservation it would justify, the prompt resistance of the United States.

At this session of Congress the Oregon question came up for discussion. By convention between the governments of the United States and Great Britain, made the twentieth day of October, 1818, for the period of ten years, and afterwards indefinitely extended and continued in force by another convention of the same parties, concluded the sixth day of August, 1827, it was agreed, that any country that was claimed by either party on the north-west coast of America, west of the Stony or Rocky mountains, commonly called the Oregon Territory, should, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be "free and open" to the vessels, citizens, and subjects of the two Powers, but without prejudice to any claim which either of the parties might have to any part of said country; and with this further provision in the third article of the said convention of the sixth of August, 1827, that either party might abrogate and annul the said convention, on giving due notice of twelve months to the other contracting party.

This agreement was entered into because the governments of the two countries were unable to settle definitely, by negotiation, their respective claims to territory in Oregon. In the attempts that had been made to adjust the controversy, the United States had offered to Great Britain the parallel of the forty-ninth degree of north latitude, with the concession of the free navigation of the Columbia river, south of that degree. Great Britain, on her part, offered to the United States, the same parallel of latitude from the Rocky mountains to its intersection with the north-easternmost branch of the Columbia river, and thence down that river to the sea, together with a small detached territory north of the Columbia. Both parties respectively rejected the propositions.

In 1843 the United States minister in London was authorized to renew the offer previously made to Great Britain, and while the subject was under consideration the negotiation was transferred to the city of Washington. The English minister, in August 1844, opened the negotiation at Washington, by renewing the offer before made to the United States, with the addition of Free Ports south of forty-nine degrees. This proposition, which would give Great Britain two-thirds of the entire territory, including the free navigation of the Columbia, and the harbors on the Pacific ocean, was promptly rejected by the United States.

No other attempt at compromise was made on the part of either until the effort made by President Polk to settle the controversy amicably and satisfactorily. A proposition was made, which was rejected by the British minister, and no further attempt being made by that functionary, the President directed the withdrawal of his offer, and asserted the right of the United States to the whole of Oregon. This proceeding, having a tendency to bring the dispute to a close, the President urged upon Congress the necessity of terminating, by proper notice, the effect of the agreement entered into in 1818, in regard to joint occupation.

On the 18th or December, Mr. Allen, of Ohio, offered a joint resolution in the Senate, for the purpose of carrying into effect the recommendation of the President. It was referred to the committee on Foreign Relations, of which Mr. Allen was chairman, and was reported back to the senate in the following form by the committee:

Joint Resolution to annul and abrogate the convention of the sixth day of Augast, eighteen hundred and twenty-seven, between the United States of America and Great Britain, relative to the country westward of the Stony or Rocky mountains.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in virtue of the second article of the convention of the sixth of August, eighteen hundred and twenty-seven, between the United States of America and Great Britain, relative to the country westward of the Stony or Rocky mountains, the United States of America do now think fit to annul and abrogate that convention, and the said convention is hereby accordingly entirely annulled and abrogated: *Provided,* that this resolution shall take effect after the expiration of the term of twelve months from the day on which due notice shall have been given to Great Britain of the passage of this resolution. And the President of the United States is hereby authorized and required to give such notice; and also at the expiration of said convention, to issue his proclamation setting forth that fact.

A number of amendments were proposed to this resolution, and the 10th of February, 1846, was designated as the time for commencing the debate thereon. Mr. Allen opened the debate on that day, and was followed by other members of the senate, of whom nearly all participated in the discussion. On the thirtieth day of March, Gen. Cass addressed the senate in favor of the resolution, without entering into a formal discussion of the title of the

United States to the whole of Oregon. Confining himself principally to the necessity and policy of the course suggested by the President, he said :

Mr. President : I do not rise at this late period to enter into any formal consideration of the principal topic involved in the proposition now pending before the Senate. I cannot flatter myself, that any such effort of mine would be successful, or would deserve to be so. I have listened attentively to the progress of this discussion, and while I acknowledge my gratification at much I have heard, still sentiments have been advanced, and views presented, in which I do not concur, and from which, even at the hazard of trespassing upon the indulgence of the Senate, I must express my dissent, and briefly the reasons of it. But, sir, I have not the remotest intention of touching the question of the title of Oregon. The tribute I bring to that subject is the tribute of conviction, not of discussion ; a concurrence in the views of others, not the presentation of my own. The whole matter has been placed in bold relief before the country and the world by men far more competent than I am to do it justice, and justice they have done it. The distinguished Senator from South Carolina, who filled, a short time since, the office of Secretary of State, has left the impress of his talents and intelligence upon his correspondence with the British Minister, and he left to an able successor to finish well a task, which was well begun. And upon this floor, the Senator from New-York instructed us, while he gratified us, by a masterly vindication of the American title ; and he was followed by his colleague, and by the Senator from Illinois, and by others, too, who have done honor to themselves, while doing good service to their country.

Before, however, I proceed further in my remarks, there is one subject, to which I will make a passing allusion. As to correcting the misrepresentations of the day, whether these are voluntary or involuntary, he that seeks to do it, only prepares for himself an abundant harvest of disappointment, and, I may add, of vexation. I seek no such impracticable object. In times like the present, when interests are threatened, passions excited, parties animated, and when momentous questions present themselves for solution, and the public mind is alive to the slightest sensation, we must expect, that those, upon whose action depends the welfare, if not the destiny, of the country, will be arraigned, and assailed, and condemned. I presume we are all prepared for this. We have all lived long enough to know, that this is the tax, which our position pays to its elevation. We have frequently been reminded, during the progress of this debate, of the responsibility, which men of extreme opinions, as some of us have been called, must encounter, and have been summoned to meet it—to meet the consequences of the measures we invoke.

During the course of a public life, now verging towards forty

years, I have been placed in many a condition of responsibility; and often, too, where I had few to aid me, and none to consult. I have found myself able to march up to my duty, and no responsibility, in cities or in forests, has been cast upon me, which I have not readily met.

As it is with me, so it is, I doubt not, with my political friends, who regard this whole matter as I do, and who are ready to follow it to its final issue, whatever or wherever that may be. I submit to honorable Senators on the other side of the chamber, whether these adjurations are in good taste; whether it is not fair to presume, that we have looked around us, examined what in our judgment we ought to do, and then determined to do it, come what may? This great controversy with England cannot be adjusted without a deep and solemn responsibility being cast upon all of us. If there is a responsibility in going forward, there is a responsibility in standing still. Peace has its dangers as well as war. They are not indeed of the same kind, but they may be more lasting, more dishonorable, and more destructive of the best interests of the country; because destructive of those hopes and sentiments which elevate the moral above the material world. Let us then leave to each member of this body the course that duty points out to him, together with the responsibility he must meet, whether arraigned at the tribunal of his conscience, his constituents, or his country.

I observe, that as well myself, as other Senators, upon this side of the Senate have been accused of dealing in *rant and abuse*—that I believe is the term—in the remarks we have submitted, from time to time, upon the subject, as it came up incidentally or directly for consideration. This *rant and abuse*, of course, had reference to remarks upon the conduct and pretensions of England.

I should not have adverted to this topic, had it not been that the honorable Senator from North Carolina, [Mr. Haywood,] not now in his place, has given color to the charge, by the expression of his "mortification in being obliged to concede to the debates in the British Parliament a decided superiority over ourselves in their dignity and moderation."

He expressed the hope that "we might get the news by the next packet of an outrageous debate in the British Parliament." "At least sufficient to put them even with us on that score."

Now, Mr. President, it is not necessary to wait for the next packet for specimens of the courtesies of British Parliamentary eloquence.

I hold one in my hands, which has been here some time, and which, from the circumstances, and from the station of the speaker, I at least may be permitted to refer to, when I find myself, among others, charged with participating in an outrageous debate, and when patriotism would seem to demand an unbecoming exhibition in the British Parliament, in order to restore, not our dignity, but our self-complacency.

Now, sir, I am a firm believer in the courtesies of life, public and private; and I desire never to depart from them. In all I have said, I have not uttered a word, which ought to give offence, even to political fastidiousness. I have spoken, to be sure, plainly, as became a man dealing in great truths, involving the character and interests of his country, but becomingly. I have not, indeed, called ambition moderation; nor cupidity, philanthropy; nor arrogance, humility. Let him do so, who believes them such. But I have heard the desire of the West, that the sacred rights of their country should be enforced and defended, called *western avidity*, in the Senate of the United States! I have not even imitated Lord John Russell, and talked of blustering. Still less have I imitated a greater than Lord John Russell in talents, and one higher in station, though far lower in those qualities, that conciliate respect and esteem, and preserve them.

He who seeks to know the appetite of the British public for abuse, and how greedily it is catered for, has but to consult the daily columns of the British journals; but let him, who has persuaded himself that all is decorum in the British Parliament, and that these legislative halls are but bear-gardens compared with it, turn to the speeches sometimes delivered there. Let him turn to a speech delivered by the second man in the realm, by the late Lord Chancellor of England, the Thersites indeed of his day and country, but with high intellectual powers, and a vast stock of information, and who no doubt understands the taste of his countrymen, and knows how to gratify it.

I have no pleasure in these exhibitions, which lessen the dignity of human nature; but we must look to the dark as well as to the bright side of life, if we desire to bring our opinions to the standard of experience. In a debate in the British House of Lords, on the 7th of April, 1843, I had the honor to be the subject of the vituperation of Lord Brougham; and an honor I shall esteem it, under the circumstances, as long as the honors of this world have any interest for me. I shall make no other allusion to the matter but what is necessary to the object I have in view, to exhibit the style of debate there, so much lauded here, and held up to our countrymen as the *beau ideal* of all that is courteous and dignified in political life. "There was one man," said the ex-chancellor, "who was the very impersonation of mob hostility to England. He wished to name him, that the name might be clear as the guilt was undivided. He meant General Cass, whose breach of duty to his own Government was so discreditable, and even more flagrant than his breach of duty to humanity as a man, and as the free descendent of free English parents, and whose conduct in all those particulars it was impossible to pass over or palliate. This person, who had been sent to maintain peace, and to reside at Paris for that purpose, after pacific relations had been established between France and America, did his best to break it, whether by the circulation of statements upon the question of international law, of

which he had no more conception than of the languages that were spoken in the moon, [loud laughter,"] (this sarcasm provoked their grave lordships to merriment,) "or by any other arguments of reason, for which he had no more capacity, than he had for understanding legal points and differences." "For that purpose he was not above pandering to the worst mob feeling of the United States"—"*a lawless set of rabble politicians of inferior caste and station*"—"*a grovelling, groundling set of politicians*"—"*a set of mere rabble, as contradistinguished from persons of property, or respectability, and of information*"—"*groundlings in station,*" *&c.*

And I am thus characterized by this *modest* and *moderate* English Lord, because I did what little was in my power to defeat one of the most flagitious attempts of modern times to establish a dominion over the seas, and which, under the pretext of abolishing the slave trade, and by virtue of a quintuple treaty, would have placed the flag, and ships, and seamen of our country, at the disposal of England.

Lord Brougham did not always talk thus—not when one of his friends applied to me in Paris to remove certain unfavorable impressions made in a *high quarter* by one of those imprudent and impulsive remarks, which seem to belong to his moral habits. The effort was successful. And now my account of good for evil with Lord Brougham is balanced.

It is an irksome task to cull expressions like these, and repeat them here. I hold them up not as a warning—that is not needed—but to repel the intimation, that we ought to study the courtesies of our position in the British Parliament.

When I came here, sir, I felt it due to myself to arraign no one's motives, but to yield the same credit for integrity of action to others, which I claimed for myself. The respect I owed to those who sent me here, and to those to whom I was sent, equally dictated this course. If some of us, as has been intimated, are small men, who have attained high places, if we have no other claim to this false distinction, I hope we shall at least establish that claim, which belongs to decorum of language and conduct, to life and conversation. We all occupy positions here high enough, and useful enough, if usefully filled, to satisfy the measure of any man's ambition. It ought to be our pride and our effort to identify ourselves with this representative body of the sovereignties of the States. With this great depository of so much of the power of the American people in the three great departments of their government, executive, legislative, and judicial—to establish an *esprit du corps*, which, while it shall leave us free to fulfil our duties, whether to our country or to our party, shall yet unite us in a determination to discard everything, which can diminish the influence, or lessen the dignity, of the Senate of the United States. While I have the honor of a seat here, I will do nothing to counteract these views. I will bandy words of reproach with no one. And the

same measure of courtesy I am prepared to mete to others, I trust will be meted by others to me. At any rate, if they are not, I will have no contention in this chamber.

I have regretted many expressions which have been heard during the progress of this discussion. *Faction, demagogues, ultra patriots, ambitious leaders, inflammatory appeals, invective, little men seeking to be great ones,* and other terms and epithets, not pleasant to hear, and still less pleasant to repeat. Now, sir, nothing is easier than a bitter retort; and he who impugns the motives of others, cannot complain, if he is accused of measuring them by his own standard, and seeking, in his own breast, their rule of action. If one portion of the Senate is accused of being *ultra* on the side of their country's pretensions, how easy to retort the charge by accusing the accusers of being *ultra* on the other? But what is gained by this war of words? Nothing. On the contrary, we lower our dignity as Senators, and our character as men. For myself, I repudiate it all. I will have no part nor lot in it. I question the motives of no honorable Senator. I believe we have all one common object—the honor and interest of our country. We differ as to the best means of action, and that difference is one of the tributes due to human fallibility. But there is no exclusive patriotism, on one side or other of this body; and I hope there will be no exclusive claim to it.

Some days since, in an incidental discussion, which sprung up, I remarked that I could not perceive why the parallel of 49 degrees was assumed as the boundary of our claim. Why any man planted his foot on that suppositious line upon the face of the globe, and erecting a barrier there, said, all to the north belong to England, and all to the south to the United States. My remark was merely the expression of my views, without touching the reasons on which they were founded. The honorable Senators from Maine, and Maryland, and Georgia, have since called in question the accuracy of this opinion, and have entered somewhat at length into the considerations, which prove that line the true line of demarcation between the two countries. And the Senator from North Carolina [Mr. HAYWOOD] lays much stress upon this matter, making it in fact the foundation of a large portion of his argument. That parallel is, in his view, the wall of separation between our questionable and our unquestionable claims. To the south he would not yield; to the north he would, though he thinks that even there our title is the best. There is an erroneous impression upon this subject somewhere, either with the *ultra,* or (if I may coin a word) the *un-ultra* advocates of Oregon; and as this line seems to be a boundary, beyond which we may look, indeed, and wish, but must not go, it is worth while to examine summarily what are its real pretensions to the character thus assumed for it, of being the line of contact and of separation between two great nations.

There is no need of discussing the right of civilized nations to

appropriate to themselves countries, newly discovered and inhabited by barbarous tribes. The principle and the practice have been sanctioned by centuries of experience. What constitutes this right of appropriation, so as to exclude other nations from its exercise in a given case, is a question, which has been differently settled in different ages of the world. At one time it was the Pope's bull which conferred the title; at another it was discovery only; then settlement under some circumstances, and under others discovery; and then settlement and discovery combined. There has been neither a uniform rule, nor a uniform practice. But under any circumstances, it is not easy to see why a certain parallel of latitude is declared to be the boundary of our claim. If the valley of a river were assumed, a principle might be also assumed, which would shut us up in it. This would be a natural and a tangible boundary. How, indeed, England could look to her own practice and acquisitions, and say to us, you are stopped by this hill, or by that valley, or by that river, I know not. England, whose colonial charters extended from the Atlantic to the South sea, as the Pacific ocean was then called, and who actually ejected the French from the country between the mountains and the Mississippi, where they had first established themselves, upon the very ground that their own rights of discovery, as shown by these charters, ran indefinitely west; and who now holds the continent of Australia—a region larger than Europe—by virtue of the right of discovery; or, in other words, because Captain Cook sailed along a portion of its coast, and occasionally hoisted a pole, or buried a bottle. I am well aware there must be limits to this conventional title, by which new countries are claimed; nor will it be always easy to assign them in fact, as they cannot be assigned in principle. We claim the Oregon territory. The grounds of this claim are before the world. The country it covers extends from California to the Russian possessions, and from the Rocky mountains to the Pacific ocean,—a homogeneous country, unclaimed by England, when our title commenced, similar in its character, its productions, its climate, its interests, and its wants, in all that constitutes natural identity, and by these elements of union, calculated forever to be united together,—no more to be divided by the parallel of 49 degrees, nor by any of the geographical circles marked upon artificial globes. No more to be so divided, than any of the possessions of England, scattered over the world. In thus claiming the whole of this unappropriated country, unappropriated when our title attached to it, the valley of the Columbia, the valley of Frazer's river, and all the other hills and vallies which diversify its surface, we but follow the example set us by the nations of the other hemisphere, and hold on to the possession of a country, which is one, and ought to be indivisible.

It is contended that this parallel of 49 degrees is the northern boundary of our just claim, because for many years it was assumed as such by our Government, and that we are bound by its ear-

ly course in this controversy; that the treaty of Utrecht, in 1713, between France and England, provided for the appointment of commissioners, to establish a line of division between their respective colonies upon the continent of North America, and that this parallel of 49 degrees was thus established. The honorable Senator from Georgia, in his remarks a few days since, if he did not abandon this pretension, still abandoned all reference to it, in the support of his position. He contended, that the parallel of 49 degrees was our boundary, but for other reasons. In the view I am now taking, sir, my principal object, as will be seen, is to show that we are at full liberty to assert our claim to the country north of 49 degrees, unembarrassed by the early action of our own Government, by showing that the Government was led into error respecting its rights by an historical statement, probably inaccurate in itself, certainly inaccurate, if applied to Oregon, but then supposed to be true in both respects. Now, what was this error? It was the assertion I have just mentioned, that agreeably to the treaty of Utrecht, the parallel of 49 degrees was established as a boundary, and having been continued west, had become the northern limit of Oregon—at least of our Oregon. Upon this ground, and upon this ground alone, rested the actions and the pretensions of our Government in this matter. So far then, as any question of national faith or justice is involved in this subject, we must test the proceedings of the Government by its own views, not by other considerations presented here at this day. The Government of the United States gave to that of Great Britain their claim, and their reasons for it. That claim first stopped at 49 degrees, while the treaty of Utrecht was supposed to affect it, as part of Louisiana, and before we had acquired another title by the acquisition of Florida. Since then, it has been ascertained that that treaty never extended to Oregon; and we have strengthened and perfected our claim by another purchase. It is for these reasons, that I confine myself to what has passed between the two Governments, with a view to ascertain our present obligations, and omit the considerations presented by the honorable Senator from Georgia. I will barely remark, however, that in the far most important fact to which he refers, as affecting the extent of our claim—to wit: the latitude of the source of the Columbia river—he is under a misapprehension. He put it at 49 degrees. But it is far north of that. It is navigable by canoes to the Three Forks, about the latitude of 52 degrees. How far beyond that is its head spring, I know not.

Mr. Greenhow, in his work on Oregon—a work marked with talent, industry, and caution—has explained how this misapprehension respecting the parallel of 49 degrees originated. He has brought forward proofs, both positive and negative, to show that no such line was established by the treaty of Utrecht, nor by commissaries, named to carry its provisions into effect. I shall not go over the subject, but beg leave to refer the gentlemen, who main-

tain the contrary opinion, to the investigations they will find in that work. The assertion, however, has been so peremptorily made, and the conclusions drawn from it, if true, and if the line extended to Oregon, would discredit so large a portion of our title to that country, that I may be pardoned for briefly alluding to one or two considerations, which seem to me to demonstrate the error respecting this assumed line of parallel of 49 degrees, at any rate in its extension to Oregon.

It will be perceived, sir, that there are two questions involved in this matter; one a purely historical question, whether commissaries acting under the treaty of Utrecht, established the parallel of 49 degrees as the boundary between the French and English possessions upon this continent; and the other a practical one, whether such a line was extended west to the Pacific ocean.

As to the first, sir, I refer honorable Senators to Mr. Greenhow's work, and to the authorities he quotes. I do not presume to speak authoritatively upon the question, but I do not hesitate to express my opinion that Mr. Greenhow has made out a strong case; and my own impression is, that such a line was not actually and officially established. Still, sir, I do not say that it is a point, upon which there may not be differences of opinion; nor that, however it may be ultimately determined, the solution of the matter will discredit the judgment of any one. This, however, has relation to the line terminating with the Hudson Bay possessions; and as I have observed, the fact is a mere question of history, without the least bearing upon our controversy with England.

I have, however, one preliminary remark to make in this connexion, and it is this: let him who asserts that our claim west of the Rocky mountains is bounded by the parallel of 49 degrees, prove it. The burden is upon him, not upon us. If commissaries under the treaty of Utrecht established it, produce their award. Proof of it, if it exists, is to be found in London or Paris. Such an act was not done without leaving the most authentic evidence behind it. Produce it. When was the award made? What were its terms? What were its circumstances? Why, a suit between man and man for an *inch* of land, would not be decided by such evidence as this, especially discredited as it is, in any court of the United States. The party claiming under it would be told, *There is better evidence in your power. Seek it in London or Paris, and bring forward the certified copy of the proceedings of the commissioners.* This is equally the dictate of common sense and of common law, and there is not always the same union between those high tribunals, as many know, to their cost. Let no man, therefore, assume this line as a barrier to his country's claim without proving it.

This line is first historically made known in the negotiations between our Government and that of England by Mr. Madison, in a dispatch to Mr. Monroe in 1804. Mr. Madison alludes to an historical notice he had somewhere found, stating that commissioners

under the treaty of Utrecht had established the line of 49 degrees as the boundary of the British and French possessions, thus fixing that parallel as the northern boundary of Louisiana. I have examined this dispatch, and I find that he speaks doubtfully respecting the authenticity of this notice; and desires Mr. Monroe, before he made it the basis of a proposition, to ascertain if the facts were truly stated, as the means of doing so were not to be found in this country. Mr. Monroe, however, could have made no investigation; or, if he did so, it must have been unsatisfactory, for he transmits the proposition substantially in the words of the historian Douglass, from whom, probably, Mr. Madison acquired this notice, without reference to any authority, either historical or diplomatic.

I cannot find, that the British Government ever took the slightest notice of the assertion respecting this incident, growing out of the treaty of Utrecht, though it has been referred to more than once by our diplomatic agents, in their communications to the British authorities since that period.

But in late years, it has disappeared from the correspondence, and neither party has adverted to it, nor relied upon it. It is strange, indeed, that in this body we should now assume the existence of a fact like this, supposed to have a most important bearing upon the rights of the parties, when the able men to whose custody the maintenance of these rights has been recently committed, have totally abandoned it in their arguments and illustrations. The assumption was originally an erroneous one—certainly so, so far as respects Oregon; but while it was believed to be true, the consequences were rightfully and honestly carried out by our Government, and the line was claimed as a boundary. But our Government is now better informed, as the British Government, no doubt always were, and thence their silence upon the subject; and the titles of both parties are investigated without reference to this historicl error,or to the position in which it temporarily placed them.

The treaty of Utrecht never refers to the parallel of 49 degrees, and the boundaries it proposed to establish were those between the French and English colonies, including the Hudson Bay Company in Canada. The charter of the Hudson Bay Company granted to the proprietors all the "lands, countries and territories," upon the waters discharging themselves into Hudson's Bay. At the date of the treaty of Utrecht, which was in 1713, Great Britain claimed nothing west of those "lands, countries and territories," and of course there was nothing to divide between her and France west of that line.

Again, in 1713, the northwestern coast was almost a *terra incognita*—a blank upon the map of the world. England then neither knew a foot of it, nor claimed a foot of it. By adverting to the letter of Messrs. Gallatin and Rush, communicating an account of their interview with Messrs. Goulburn and Robinson, British commissioners, dated October 20th, 1818, and to the letter of Mr. Pakenham to Mr. Calhoun, dated September 12th, 1844, it will be

seen that the commencement of the British claim is effectively limited to the discoveries of Captain Cook in 1778. How, then, could a boundary have been established fifty years before, in a region where no Englishman had ever penetrated, and to which England had never asserted a pretension? And yet the assumption, that the parallel of 49 degrees was established by the treaty of Utrecht, as a line between France and England, in those unknown regions, necessarily involves these inconsistent conclusions. But besides, if England, as a party to the treaty of Utrecht, established this line running to the western ocean as the northern boundary of Louisiana, what possible claim has she now south of that line? The very fact of her existing pretensions, however unfounded these may be, shows that she considers herself no party to such a line of division. It shows, in fact, that no line was run; for if it had been, the evidence of it would be in the English archives, and, in truth, would be known to the world without contradiction. The establishment of a boundary between two great nations is no hidden fact; and we may now safely assume, that the parallel of 49 degrees never divided the Oregon territory, and establishes no barrier to the rights by which we claim it. The assertion was originally a mere *dictum*, now shown to be unfounded.

The Senator from Maine has adverted likewise to the treaty of 1763, as furnishing additional testimony in favor of this line. That treaty merely provdes, that the confines between the British and French dominions shall be fixed irrevocably by a line drawn along the middle of the river Mississippi, from its source, &c. This is the whole provision that bears upon this subject. I do not stop to analyze it. That cannot be necessary. It is obvious that this arrangement merely established the Mississippi river as a boundary between the two countries, leaving their other claims precisely as they formerly existed. And this, too, was fifteen years before the voyage of Captain Cook, the commencement of the British title on the northwest coast. Briefly, sir, there are six reasons, which prove that this parallel was never established under the treaty of Utrecht, so far at least as regards Oregon.

1. It is not shown that any line was established on the parallel of 49 to the Pacific ocean.

If the fact be so, the proper evidence is at Paris or London, and should be produced.

2. The country on the northwestern coast was then unknown, and I believe unclaimed; or, at any rate, no circumstances had arisen to call in question any claim to it.

3. The British negotiators in 1826, and their Minister here in 1844, fixed, in effect, upon the voyage of Captain Cook in 1778, as the commencement of the British title in what is now called Oregon.

4. The treaty of Utrecht provides for the establishment of a line between the French and English colonies, including the Hudson Bay Company. The British held nothing west of that company's

possessions, which, by the charter, includes only the "lands, countries and territories," on the waters running into Hudson's Bay.

5. If England established the line to the Pacific ocean, she can have no claim south of it; and this kind of *argumentum ad hominem* becomes conclusive. And, let me add, that I owe this argument to my friend from Missouri, [Mr. ATCHISON,] to whose remarks upon Oregon the Senate listened with profit and pleasure some days since.

6. How could France and England claim the country to the Pacific, so as to divide it between them in 1730, when, as late as 1790, the British Government, by the Nootka convention, expressly recognized the Spanish title to that country, and claimed only the use of it for its own subjects, in common with those of Spain?

I now ask, sir, what right has any American statesman, or what right has any British statesman, to contend that our claim, whatever it may be, is not just as good north of this line as it is south of it. When this question is answered to my satisfaction, I, for one, will consent to stop there. But until then, I am among those who mean to march, if we can, to the Russian boundary.

Now, Mr. President, it is the very ground assumed by the Senator from North Carolina, and by other Senators, respecting this parallel of 49 degrees, together with the course of this discussion, which furnishes me with the most powerful argument against the reference of this controversy to arbitration.

I have shown, I trust, that there is no such line of demarcation, established under the treaty of Utrecht, extending to the Oregon territory, and the misapprehension, whence the opinion arose.

While such a conviction prevailed, it was fairly and properly assumed by the Government as the northern boundary of the Oregon claim, before the Florida treaty. Since that treaty I consider the offers on our part as offers of compromise, not recognitions of a line, from the resumption of negotiations by Mr. Rush, who carried our title to 51 degrees, to their abandonment in 1827 by Mr. Gallatin, who, finding a satisfactory adjustment impossible, withdrew the pending offer, and asserted that his Government "would consider itself at liberty to contend for the full extent of the claims of the United States." And for their full extent we do claim. And I take the opportunity to tender my small tribute of approbation to the general conduct of these negotiations by the American Government, and their commissioners, and especially to Mr. Rush, a citizen as well known for his private worth as for his high talents and great public services, and who seems to have been the first, as Mr. Greenhow remarks, "to inquire carefully into the facts of the case."

And it is not one of the least curious phases of this controversy, that down to this very day the pretensions of England are either wholly contradictory, or are shrouded in apparently studied obscurity. She asserts no exclusive claim anywhere, but an equal claim everywhere.

"A right of joint occupancy in the Oregon territory," says the British Minister in his letter to Mr. Calhoun, dated September 12th, 1844, "of which right she can be divested with respect to any part of that territory, only by an equal partition of the whole between the parties."

And yet, notwithstanding he refers to the whole territory, still, in the protocol of the conference at Washington, dated September 12th, 1844, he refused to enter into any discussion respecting the country north of 49 degrees, because it was understood by the British Government to form the basis of negotiation on the part of the United States. Thus, on the 12th of September, recognizing our right to an equal, undivided moiety of Oregon, and two weeks after coolly claiming the northern half of it, as a fact not even to be called into question, and then offering to discuss with us the mutual claims of the two countries to the southern half!

Well, sir, influenced by the motives I have stated, and by a desire to terminate this tedious controversy, this parallel of 49 degrees, sometimes without an accessory, has been four times offered by us to the British Government, and four times rejected, and once indignantly so; and three times withdrawn. Twice withdrawn in the very terms—once by Mr. Gallatin, November 15th, 1826, who withdrew a proposition made by Mr. Rush, and once during the present administration; and once withdrawn in effect, though without the use of that word, by Mr. Gallatin, in 1827, who announced to the British negotiators "that his Government did not hold itself bound hereafter, in consequence of any proposal, which it had made for a line of separation between the territories of the two nations beyond the Rocky mountains; but would consider itself at liberty to contend for the full extent of the claims of the United States."

The Senator from Louisiana will perceive, that he was in error yesterday, when he said, that no offer of a compromise had ever been withdrawn, till the withdrawal made by the present Administration, unless such offer had been announced as an ultimatum. But without recurring to any authority upon this subject, it is evident, that if a nation is forever bound by an offer of compromise, no prudent nation would ever make such an offer. There would be no reciprocity in such a condition of things. In controversies respecting territory, each party would hold on to its extreme limit; for if it made an offer less than that, it would abandon, in fact, so much of its own pretensions, leaving those of its opponent in their full integrity.

Such, sir, is the state of our controversy with England; and yet honorable Senators upon this floor, able lawyers and jurists also, maintain that this line, thus offered, and refused, and withdrawn, is now in effect the limit of our claim, and that we are bound honorably, and morally, and they say, at the risk of the censure of the world, to receive it as our boundary whenever England chooses so to accept it. This is all very strange, and would

seem to me so untenable, as not to be worthy of examination, if it were not urged by such high authorities. Let us look at it.

The honorable Senator from Maryland has entered more fully into this branch of the subject than any other member of this body, and I shall therefore confine my inquiries to his remarks.

There are two propositions connected with this matter, which it is proper to consider separately. The first is, the obligation upon the President, agreeably to his own views, to accept this rejected offer, if it comes back to him; and the other is, the obligation upon the country, and upon this body, as one of its depositaries of the treaty-making power, to confirm the act of the President, should it come here for confirmation. What, sir, is a compromise? It is an offer made by one party to the other to take less than his whole claim, with a view to an amicable adjustment of the controversy, whatever this may be. The doctrine of compromises is founded upon universal reason; and its obligations, I believe, are everywhere the same, whether in the codes of municipal or general law. An offer made in this spirit never furnishes the slightest presumption against the claim of the party making it; and for the best of reasons, not only that this amicable process of settlement may be encouraged and extended, but because it will often happen, that both individuals and nations may be willing to sacrifice a portion of what they consider their just rights, rather than encounter the certain expense and trouble, and the uncertain issue of litigation, whether that litigation be in a court of justice, or upon a battle field. Such is the general principle; and the practical operation of any other would hold one of the parties forever free. One makes his offer, and must adhere to it, while the other declines it, or refuses it, and still may hold on to it indefinitely.

Surely it cannot be necessary to pursue this illustration farther. Such a construction as this, which plays fast and loose at the same time, carries with it its own refutation, however respectable the authority, which attempts to support it. But, reverting to the obligation of the President, what says the honorable Senator from Maryland? He says that the President—not James K. Polk, but the Chief Magistrate of the nation—having felt an implied obligation to renew the offer of 49 degrees, is now bound in all time to accept it, and, I suppose, patiently to wait for it, till the demand comes. I must say, that in this brief abstract of the President's views, the Senator has hardly done justice to him. I do not stand here to say, what the President will do, should Great Britain propose to accept the parallel of forty-nine degrees, as the boundary between the two countries. In the first place it would be to argue upon a gratuitous assumption. I have not the slightest reason to believe, that the British government have given any intimation that it will ever come back to that line. But, in the second place, if it should, what then? The incipient step is for the President to take, and I should leave the matter here, without remark, had not the Senator from Maryland, and the Senator from North Carolina

and other Senators, labored to impress the conviction, that the President ought, and must, and would close with the British proposition to accept the parallel of forty-nine degrees, should it be made. I shall not analyze the words of the President's message, but content myself with a general allusion to it. Truth is seldom promoted by picking out particular phrases, and placing them in juxtaposition. The President says—and it is evident the whole message was carefully prepared—that though he entertained the settled conviction, that the British title to any portion of Oregon could not be maintained; yet, in deference to the action of his predecessors, and to what had been done, and in consideration, that the pending negotiation had been commenced on the basis of compromise, he determined, in a spirit of compromise, to offer a part of what had been offered before—the parallel of forty-nine degrees, without the navigation of the Columbia river. He says this proposition was rejected, and in what terms we all know, and that he immediately withdrew it, and then asserted our title to the whole of Oregon, and maintained it by irrefragable arguments. Now, sir, I am not going to argue with any man, who seeks to deduce from this language a conviction in the mind of the President, that he considers himself under the slightest obligation to England to accept the parallel of forty-nine degrees, should she desire it as a boundary. In this account of his proceedings, he is explaining to his countrymen the operations of his own mind, the reasons which induced him to make this offer, made, as he says, "in deference alone to what had been done by my predecessors, and the implied obligations their acts seemed to impose." What obligations? None to England, for none had been created; but the obligations imposed upon a prudent statesman to look at the actions and views of his predecessors, and not to depart from them without good reasons. The obvious meaning is this: I found the negotiations pending; after an interval of almost twenty years, they had been renewed; they began on the basis of compromise, and though three times a compromise had been offered to England and rejected, and though she had not the slightest right to claim, or even expect it would be offered to her again, and though I determined, that the same proposition should not be offered to her, still, as a proof of the moderation of the United States, I deemed it expedient to make her another offer, less than the preceding one, which, a quarter of a century before, she had rejected. A curious obligation this, if it had reference to the rights of England, and a curious mode of fulfilling it! If he (the President) were under any obligation, the obligation was complete, to make the offer as it had been made before. And she has the same right to claim the navigation of the Columbia river, that she has to claim the parallel of forty-nine degrees as a boundary; and the honorable Senator from Louisiana has placed the matter upon this very ground. Assuming, that the obligation referred to by the President was an obligation to England, he thinks the President failed

in his duty in not carrying out his own views of the national duties.

Why, sir, if offers of compromise were to be made till doomsday, the rights of both parties would remain in their integrity. And what offer creates this implied obligation? Several offers have been made by our government to that of England for the adjustment of this controversy. Which creates this obligation, one of them, or all of them? But it is very clear, sir, that neither of them creates it. The common-sense view of this subject is the true one in this case, and in most other cases. The party offering says to its adversary, I will consent to that line. If you consent to it, our controversy will be amicably adjusted. The only obligation created by this act is, to allow reasonable time to the other party for decision, and then faithfully to adhere to the terms, should they be accepted. If unreasonably delayed, still more, if rejected, both parties are thrown back upon their original position, unembarrassed by this attempt at conciliation.

But, sir, the President is a judge of his own duties. I am not afraid to leave them with him—they are in safe keeping. Should the question respecting this parallel ever be presented to him for decision, I have a perfect conviction, that whether he decide for it or against it, or refer it to the consideration of the Senate, he will fulfill his responsible duties with a conscientious regard to the high obligations he is under to the country and to the Constitution. But we, too, have duties to perform, and among these may be the necessity of deciding for ourselves the nature and extent of this obligation upon the nation.

I do not speak now of any considerations of expediency, which may operate upon the decision of this matter. There are none which will operate upon me. But I assume to myself no right to prescribe the course of others, whether of the President or of the Senate, or to judge it when taken. But I reject this doctrine of a national obligation to England. I deny the right of any one to commit the faith of this country to a rejected line—to bind us, leaving our opponent unbound—to convert a mere offer of compromise into the surrender of a claim; to change the established opinions and usages of the world upon this subject. It seems to me that a cause cannot be strong which needs such auxiliaries for its support.

But, sir, this doctrine, as I before observed, and the course of the remarks by which it is endeavored to maintain it, furnish to me conclusive arguments against the reference of this controversy to arbitration. Here, at home, in this co-ordinate branch of the national legislature, we are told, and almost *ex cathedra* too, that we have concluded ourselves, by this offer of forty-nine degrees, and that upon that parallel must be our boundary, when England makes up her mind to come to it. Now, in this state of the matter, what would be the effect of an arbitration? The Secretary of State, in his answer to the British Minister, has ably and truly exposed the tendency of this process of adjustment, whether public

or private. Its tendency is not to settle the actual rights of the parties, but to compromise them. To divide, and not to decide. We all know this, and he who runs may read it in the history of almost every arbitration, within the circle of his observation. Though, as I have already said, the offers of compromise we have made to England ought not to furnish the slightest presumption against the validity of our whole claim, and would not, before any well-regulated judicial tribunal in Christendom, yet commit our cause to arbitration, and where are we? We might as well throw to the winds all the facts, and arguments, and illustrations, upon which we build our claim, and say to the arbitrators, do as you please, we are at your mercy. For this they would do at any rate. They would not heed your views, but they would turn to the history of the controversy, and to the course of the parties. They would measure what each had offered, and would split the difference to the ninth part of a hair. They would assume, that the American claim goes to the forty-ninth parallel, and the British claim to the Columbia river; and they would add, and subtract, and multiply, and divide, till all this process would end in a tolerably equal partition of what no one on this floor denies, and what every American, or almost every American, as firmly believes makes part of his country, as does the tomb at Mount Vernon, or the grave at the Hermitage, where countless generations of men will come as to places of pilgrimage—not, indeed, to worship, but to think upon the days and the deeds of the patriots and warriors who sleep below. You could not find a sovereign nor a subject, a State nor a citizen in Christendom, who, in such a controversy between two great nations, would not rather decide with the dividers, than with the titles. Well, sir, I agree fully, that if we wish to get rid of all this matter without regard to the why or the how, we may safely commit it to the custody of arbitrators. Their decision, though we should know it before hand, might be considered a plaster for our wounded honor. A poor one, indeed, which would leave a most unsightly scar. But, in reality, sir, this course of action would be open and obvious to ourselves and to the world. Its motives and its results would be equally palpable. We should lose much in interest, and much more in character. For myself, I would far rather divide with England this portion of the territory, than commit our rights to arbitration There would be some magnanimity in such a procedure. But to take shelter behind this form of trial is to resort to a miserable subterfuge, which, under the pretext of an equal adjustment, would be but a surrender. If, then, we seriously believe in our own claims, even to forty-nine degrees, and sincerely desire to maintain them, we must unite in approving the rejection, by the President, of this pacific means of transferring to England a valuable part of our common country.

Mr. President, the honorable Senator from North Carolina, not now in his seat, called those, who believe our title to fifty-four degrees forty minutes to be clear, the *ultra* friends of the President,

and, I understood him, he claimed to be his true friend, saving him from those imprudent ones. As I find myself in this category, I am obnoxious to the charge, and with the natural instinct of self-defence, I desire to repel it. We are *ultra* friends, because we do not stop at forty-nine degrees. I have already shown, that there is no stopping place on that parallel—no true rest for an American foot. The Senator himself considers our title to that line clear and indisputable, and I understood him that he would maintain it, come what might. Well, if it is found that the treaty of Utrecht no more extended to Oregon than to the moon, whatever other boundary may be sought or found, it cannot be that purely gratuitous boundary—the parallel of forty-nine degrees. And as the Senator from North Carolina must leave it, where will he find a better barrier than the Russian possessions? But he says, also, that though our title to the country north of forty-nine degrees is not indisputable, still it is better than any other title. Now, I will appeal to the Senator's charity—no, not to his charity, that is not necessary—but I will appeal to his sense of justice, to say, whether such a difference of opinion as exists between himself and me on this subject can justly be characterized as *ultraism* on my part. Our title, he says, is the best—not indisputable; but still the best. The same evidence, which produced this conviction in his mind, produces a stronger one in mine; and this is the tribute, which every day's experience pays to human fallibility. We are differently constituted, and differently affected by the same facts and arguments. While the honorable Senator stands upon the parallel of forty-nine degrees, as the precise line, where our questionable and unquestionable titles meet, there are many, and I am among the number, who carry our unquestionable title to the Russian boundary in one direction, and some, perhaps, though I have not found one, who carry it in another direction to the Columbia river. It seems to me in bad taste, to say the least of it, for any member to assume his own views as infallible, and to say to all the world, who differ from him, whether on the right hand or the left, my opinion is the true standard of orthodoxy, and every one who departs from it is a *heretic* and an *ultra*. Thus to stigmatize a large portion of the Senate, is not, I am sure, the intention of the Senator; but such is, in fact and effect, the direct tendency of his remarks. We are *ultra*, because, to use a somewhat quaint but a forcible apothegm, *we will not measure our corn by his bushel*. Why, sir, we have each a bushel of our own, given us by the creator, and till the Senator's is sealed and certified by a higher authority, we beg leave to keep our own, and to measure our duties by it.

I did not understand the precise object of some of the remarks of the Senator of North Carolina, though I had less difficulty respecting the remarks themselves. He told us the President nowhere claimed fifty-four degrees forty minutes; and I presume he thus contended in order to show that the President might consistently accept any boundary south of that parallel. I again disclaim all interference with the President in the execution of his duties.

I do not think, that what he will do in a gratuitous case, should furnish the subject of speculation upon this floor. I know what I will do, and that is enough for me; and as I took the opportunity, three years ago, in a public and printed address, at Fort Wayne, to define my position in this matter, before I became a member of this body, my allusion to it here cannot be deemed the premature expression of my opinion I then said:

"Our claim to the country west of the Rocky mountains is as undeniable as our right to Bunker's Hill and New Orleans; and who will call in question our title to these blood-stained fields? And I trust it will be maintained with a vigor and promptitude equal to its justice. War is a great evil, but not so great as national dishonor. Little is gained by yielding to insolent and unjust pretensions. It is better to defend the first inch than the last. Far better, in dealing with England, to resist aggression, whether of impressment, of search, or of territory, when first attempted, than to yield in the hope, that forbearance will be met in a just spirit, and will lead to an amicable compromise. Let us have no red lines upon the map of Oregon. Let us hold on to the integrity of our just claim. And if war come, be it so; I do not believe it will be long avoided, unless prevented by intestine difficulties in the British Empire. And wo be to us, if we flatter ourselves it can be arrested by any system of concession. Of all delusions, this would be the most fatal, and we should awake from it a dishonored, if not a ruined people."

Now the Oregon I claim, is all Oregon, and no vote of mine in this Senate will surrender one *inch* of it to England. But the Senator from North Carolina says, that the Oregon the President claims is an Oregon of his own, and not the country, which now excites the anxious solicitude of the American people. And if it were so, is it the duty of a friend, I may almost say claiming to be an exclusive one, to hold up to his countrymen the word of promise of their Chief Magistrate, thus kept to the ear, but not to the hope? But it is not so. The honorable Senator has been led into an error—a palpable error. The President says the British pretensions could not be maintained to *any portion of the Oregon territory*. He says, also, that our title to the *whole of the Oregon territory* is maintained by irrefragable facts and arguments. He says British laws have been extended throughout the whole of Oregon. Now, sir, has any man a right to say, that the President falters in his purpose, by talking of the whole of a country, when he does not mean the whole of it? No, sir; the idea never occurred to him, never crossed his mind. When he said Oregon, he meant so; and I have no more doubt, than I have of my existence, that he believes as firmly in the American title to it, as he believes he is now the Chief Magistrate of the United States.

If it were possible, that this proposition needed support, it would be easily found. The communications of the Secretary of State, are the communications of the President, written by his direction

and submitted for his approbation, and never sent without his supervision, and very seldom, I imagine, without emendations by him. The correspondence with the British Minister, laid before us at the commencement of the session, was doubly his. His, because carried on by his Secretary of State, with a foreign government, and his, because communicated to Congress and his country, as the depositary of his views and measures. Well, sir, in the letter from the Secretary of State to Mr. Pakenham, dated July 12th, 1845, Mr. Buchanan says:

"Upon the whole, from the most careful and ample examination which the undersigned has been able to bestow upon the subject, he is satisfied that the Spanish American title now held by the United States, embracing the whole territory between the parallels of forty-two degrees and fifty-four degrees forty minutes, is the best title in existence to this entire region," &c.

And he adds:

"Notwithstanding such was and still is the opinion of the President," &c.

Human words and human deeds are worthless to disclose human opinions, if the Oregon of the President is not the Oregon we claim and hope to secure.

The Senator from North Carolina has presented to us some peculiar views of the President's position and duties, and has deduced his future course, not from his message, but from extrinsic circumstances, acts of *omission* and of *commission*, as he calls them, by which the language of the President is to be controlled, and his further course in this controversy regulated. I doubt the propriety, as well as the wisdom of all this, either as regards the President, the Senate, or the country. If successful in his declarations or expositions, whichever they may be, I do not see what practical advantage the Senator expected to gain. The President would still have to perform his own duties, and we to perform ours, without reference to the embarrasments created by this novel mode of reading the past views and the future course of the Chief Magistrate. In the mean time, what better plan could be devised to excite the public mind, and to rouse suspicions, which would fly upon the wings of the wind to the furthest verge of the country? No such intentions ever entered the mind of the honorable Senator; but I submit to him, if, in its very nature, this process is not calculated to produce such a result, and whether, in fact, it has not produced it. And yet, it seems to me, that the reasons in support of it are utterly insufficient to justify the conclusions.

What are these reasons? I will just touch some of them, having no time to pursue the subject.

There were two acts of *commission;* one was the offer before made of the parallel of forty-nine degrees as a compromise; and the other was the expression of Mr. Buchanan in his last letter to the British Minister, dated August 30th, 1845, that the Presi-

dent hoped the controversy would be terminated without a collision.

Now, sir, as to the first. I trust I have shown, that whatever course the President may pursue respecting the parallel of forty-nine degrees, as a boundary hereafter, his duty will be before him, unembarrassed by the offer heretofore made, and that, consequently, that circumstance is no key to unlock the hidden future.

And as to the second. I will ask the honorable Senator if, upon reflection, he thinks the expression of the President's hope is really entitled to this consideration.

It seems to me partly a polite and courteous phrase, and partly the sincere declaration of a wish, that some mode might be devised for an amicable adjustment of this matter. Let us not deprive diplomatists of that hope, which carries us all forward to the bright recompense of the future. But let us not convert the expression of it into solid promises, nor settled convictions.

And what are the acts of *omission*? One is the neglect to recommend defensive measures, and the other is a want of confidence in the chairman of the Committee on Foreign Relations.

And now for the first. I presume ere this the honorable Senator is aware, that he has entirely misunderstood the views of the President upon this subject. In his message, at the commencement of the session, the President recommended that a force of mounted riflemen should be raised, and also an augmentation of the naval means of the country. But later in the session, in conformity with resolutions which originated here, recommendations and estimates, seen and approved by the President, and his in fact, agreeably to the constitution of our Executive department, were sent, by the Secretaries of the War and of the Navy, to the proper committees of the Senate. A bill was reported by the Naval Committee for an additional steam force, and was ably and vigorously advocated by the honorable chairman of that committe. But it was put to sleep, partly, if not principally, I believe, upon the ground that, if you cannot immediately equip a navy, therefore you must not build a ship; And if you do not require an army, therefore you must not raise a regiment. And the result may well have been taken as an indication both by the Naval and Military Committees, that the Senate did not deem an augmentation of the defensive means of the country necessary under the circumstances, and therefore prevented all further action on their part, as useless. For I consider the proposition of the Naval Committee, thus put to sleep, one of the least objectionable of all the measures submitted to us under the sanction of the President. I have looked over these estimates, sir, both from the War and Navy Departments, and I consider them proper and judicious, in the existing state of our relations with England; and I will add, the heads of both of those departments discharged their responsible duties—for their duties were responsible—in a satisfactory manner.

A brief recapitulation may not be unacceptable, nor unprofitable.

The Secretary of War recommended the immediate passage of a bill for the new works.

An appropriation of three hundred thousand dollars for the fortification and obstruction of channels; and also for field works.

An appropriation of one hundred thousand dollars for general contingencies in the field, including the preparation of a pontoon equipage.

An estimate of the sum of five million dollars, as necessary for fortifications and obstructions, to be appropriated when Congress might think the aspect of affairs threatened hostilities, and then to be placed at the disposition of the President.

The estimate for ordnance and ordnance stores amounted to four million, two hundred and seventy-nine thousand, six hundred and eighty dollars—of course to be appropriated as Congress might deem proper.

An addition to the army of so many privates as would raise each company to one hundred men, thus adding seven thousand, nine hundred and sixty men to the army.

Authority to the President to raise fifty thousand volunteers, to be called into the public service for one year, whenever required.

The propositions respecting fortifications and ordnance came from the proper bureaus, and the proposition for an augmentation of the army and a volunteer force came from the commanding general, whose high character and gallant services in the field, justly give great weight to his opinions; and those propositions were assumed by the Secretary, and he became responsible for them.

The Secretary of the Navy recommended an accumulation of naval materials and stores to the amount of one million sixty thousand dollars.

For the repair and equipment of all the vessels in ordinary, and of the frigates of the United States, two million one hundred and forty-five thousand dollars.

For three steam-frigates, five steam-sloops, and two steamers, of a smaller class, three million three hundred and ten thousand dollars.

Naval ordnance and stores, three hundred and sixty thousand dollars.

How these estimates were prepared in the Navy Department, the document in my possession does not show. I presume they went through the proper bureaus. They came to the Senate, as the act of the Secretary.

It is obvious that all these appropriations, in any contingency, would not be wanted for some time; and, indeed, that the full legislative action upon the subject would await the developments growing out of our foreign relations. Ordinary prudence requires that a commencement should be immediately made; to what extent, Congress must judge. But it will be remarked, that much the larger portion of these estimates is for materials and supplies,

which we must have some time or other, and ought to have ere long, let the aspect of our foreign affairs be as it may.

In making this provision, we but anticipate our necessities, and the worst that can happen will be, that we shall sooner be prepared for a state of things, for which we ought to be always prepared.

As to the mode of receiving this information, it has been sanctioned by the practice of the government for years. Congress and its committees have been in the daily habit of calling upon the heads of the departments for the necessary facts and views in the discharge of their legislative duties. And, in all cases like the present, the reports are submitted to the President before being sent here, and thus receive his sanction, and they are often changed by his directions. This is well known to all who are acquainted with the routine of our executive department.

To return now, sir, to this act of omission, this neglect to recommend proper measures of defence, by which the President's views are to be interpreted, as I understand, in this manner. The President recommends no measures of defence. Therefore he considers the country in no danger. Therefore he intends to yield to the parallel of forty-nine degrees, which the British government intends to demand; and thus there will be no war. Now, sir, more than two months before this position was taken by the honorable Senator, the President had recommended, by his Secretaries, an addition to the army of almost eight thousand men, the organization of fifty thousand volunteers, the removal of the limitations respecting naval establishments, that he might be able to direct such an augmentation of the seamen of the navy as circumstances may require, and appropriations for military purposes to the amount of nine million six hundred and seventy-eight thousand, six hundred and eighty dollars; and for naval purposes to the amount of six million five hundred and fifteen thousand dollars—making in the whole sixteen million, one hundred and ninety-five thousand, six hundred and eighty dollars, in addition to the recommendations in his message at the commencement of the session, and to the ordinary estimates of the department.

It is unnecessary to pursue this topic. Whatever may be the just construction of the President's meaning, which to me is exceedingly clear, it is now obvious that this act of omission becomes an act of commission, and proves that the President is by no means tranquil respecting the condition of the country.

As to the alleged want of Executive confidence in the chairman of the Committee on Foreign Relations, I hardly know how to speak of it becomingly, when urged in this connexion. Were the fact so, it would seem very strange to me, and I should think the President very badly advised, to withhold a proper confidence from one of his truest and most efficient friends upon this floor, and one, too, who, from his position at the head of a most important committee, was officially entitled to it.

No one, who has witnessed the energy, the talent, and the prompt-

itude of the honorable chairman, can doubt the service he has rendered this Administration, nor the confidence he deserves—a confidence, indeed, demanded more for the sake of the public interest, than for his own sake.

But, sir, I have reason to know that the Senator from North Carolina is in error in all this; that this deduction from extrinsic circumstances is but another proof, that truth is not always attained when sought by indirect and remote facts. I have reason to know that the chairman of the Committee on Foreign Relations communicates freely with the President, and enjoys his confidence.

And what proof of estrangement between these high functionaries is furnished by the honorable Senator from North Carolina? Why, thus stands the case: The honorable chairman stated that the records, and the records alone, were the sources of his information.

It seems to me it would better become our position if we all sought the views of the President, so far as we ought to seek them, in the same authentic documents. It would save a world of unprofitable conjecture. Now, sir, what does all this amount to? Why, to this: the President told the Senator from Ohio no more, as to his future course, than he told the country and Congress in his message. It would be strange if he had. The avowal of a line of policy, when the proper circumstances are before him, is the duty of a sound and practical statesman. But I should much doubt the wisdom of the Chief Magistrate of a great country, who should sit down to speculate upon future and remote contingencies, affecting the public welfare, with a view even to the decision upon his own course, and still less with a view to its annunciation to the world.

Let me, then, ask the Senator, if he thinks it is the duty of the chairman of the Committee on Foreign Relations to put gratuitous questions to the President, in order that he may be able to come here and declare what the Executive will do in such a contingency, which may never happen; or which, if it do happen, may bring with it circumstances, that may change the whole aspect of the question? But I forbear, sir. I consider it unnecessary to pursue this question further.

A considerable portion of the argument of the Senator from North Carolina was devoted to prove that the message of the President did not justify these anticipations of war, which it appears to myself and to other Senators to do. Not that he called in question the natural tendency of the measures recommended by the President, nor the fair construction of his language; but he controlled these by the extrinsic facts to which I have adverted. I shall say nothing more upon this subject, but I shall fortify my own opinion by the views of other members of this body, who are entitled to more weight than I am.

The honorable Senator from South Carolina said "that the recommendation in the message is founded upon the conviction, that

there is no hope of compromise of the difficulties growing out of the President's message is too clear to admit of any doubt."

After some further remarks, showing the opinions entertained of the dangers of war, he adds: "Entertaining these opinions, we were compelled to oppose notice, because it was necessary to prevent an appeal to arms, and insure the peaceful settlement of the question."

And the Senator from Maryland said: "We have all felt, Mr. President, that at one time at least—I trust that time is past—the nation was in imminent danger. From the moment that the President of the United States deemed it right and becoming, in the very outset of his official career, to announce to the world that the title to the north-west territory was clear and indisputable, down to his message in December last, I could not see how war was to be averted."

And the honorable Senator from Louisiana, in his speech yesterday, advanced the same opinion upon this subject.

And the Senator from Georgia also expressed the conviction that "this resolution, based as it is on the President's message, is a distinct intimation to Great Britain that this matter must be settled, and in a manner acceptable to us, or that at the expiration of that time we will take forcible possession of the whole country," which of course means war.

And he adds that "the Senator from North Carolina tells us, that the President is waiting at the open door of his cabinet, ready to adjust this controversy, and to preserve the peace of the country." "Sir," he adds, "even with the aid of the Senator's optics, I cannot see him there." And he adds, also, if these things were so, referring to the views of the Senator from North Carolina respecting the President's message, "I should be sorry to do so." And I fully concur with him in the sentiment.

Now, sir, I shall not thrust myself into this dispute—

"Non nostrum inter vos tantas componere lites."

During the progress of this discussion, the blessings of peace and the horrors of war have been frequently presented to us with the force of truth, and sometimes with the fervency of an excited imagination. I have listened attentively to all this, though much of it I remember to have heard thirty-five years ago. But I beg honorable Senators to recollect, that upon this side of the chamber we have interests, and families, and homes, and a country, as well as they have; and that we are as little disposed to bring war upon our native land, unnecessailly, as they can be. That some of us know by experience, all of us by reading and reflection, the calamities, moral and physical, that war brings in its train. And we appreciate the blessings of peace with a conviction as deep and as steadfast. And no one desires its continuance more earnestly than I do. But all this leaves untouched the only real subject of inquiry. That is not whether peace is a blessing and war a curse but whether peace can be preserved, and war avoided, consistently

with the honor and interest of the country. That question may come up for solution; and if it does, it must be met by each one of us, with a full sense of its abiding importance, and of his own responsibility. I suppose there is not a gentleman in this body, who will not say, that cases may occur, even in this stage of the world, which may drive this country to the extreme remedy of war, rather than she should submit to arrogant and unreasonable demands, or to direct attacks upon our rights and independence—like impressment, or the search of our ships, or various other acts by which power is procured and maintained over the timid and the weak. The true practical question for a nation is not the cost of war, whether measured by dollars, or by dangers, or by disasters, but whether war can be honorably avoided; and that question each person having the power of determination must determine for himself, when the case is presented. Good men may indulge in day-dreams upon this subject, but he who looks upon the world as it has been, as it is, and as it is likely to be, must see that the moral constitution of man has undergone little change; and that interests and passions operate not less upon communities, than they did when the law of public might was the law of public right, more openly avowed than now. Certainly a healthful public opinion exerts a stronger influence over the world, than at any former period of its history. Governments are more or less restrained by it, and all feel the effects of it. Mistresses, and favorites, and minions, no longer drive nations to war, nor are mere questions of etiquette among the avowed causes of hostilities. It is not probable, that a people will ever be again overcome, because a statesman may consult his vanity rather than his taste in the choice of his pictures, nor that the state of Europe will be changed because a lady's silk gown may be spoiled by a cup of tea. Humanity has gained something—let us hope it will gain more. Questions of war are passing from cabinets to the people. If they are discussed in secret, they are also discussed before the world, for there is not a government in Christendom, which would dare to rush into war, without first consulting the public mind.

A great deal has been said in England, and not a little in the United States, respecting our grasping propensity in demanding the whole of Oregon; and we have been solemnly admonished of the awful responsibility of involving two great nations in war. The subject in dispute is said not to be worth the perils a conflict would bring with it; and the honorable Senator from Maine has exhibited to us, as in balance, the disasters of war, and the value of the matter in controversy, and has made our territorial claims to kick the beam. Permit me to turn to the other side of this picture. I acknowledge the moral obligation of Government to avoid war, where higher obligations do not drive them to it. I will not call England the Pharisee of nations, but I will say that she does not hide the light of her own good deeds under a bushel. The ocean scarcely beats upon a shore within sight of which her flag is not

seen, and within sound of which her drum is not heard. And yet moderation is proclaimed, and often with the sound of her cannon, from one end of the civilized world to the other. *She is not like other nations*, and least of all, like *that great grasping mobocracy of the West* "I thank God," said the Pharisee of old, "that I am not as other men are." Now the chapter of accidents has turned up favorably for England, if she will accept the opportunity afforded her. No man in this country wants war—*ultraists* no more than *compromists*, if I may use terms justified by the occasion. The extreme partisan of decisive measures asks nothing but the whole of Oregon. Give him that, and he will become as meek as the latest professor of humility, who writes homilies upon national moderation for the London Times. Now, sir, let England abandon her pretensions, and all these disasters, the consequences of war, which are foretold—and I do not doubt many of them justly foretold—will give way, and exist only in the memory of this debate. There is no condition of things, foreseen by any man, public or private, in this country, which can give to England a better line, than 49°. The country north of that line is therefore all she could gain by a contest, which is to involve the fearful consequences predicted to both countries; which during its progress, it is said, will bring nation after nation within the sphere of its operation, and which is finally to commit to the decision of the sword the great question of free government through the world, by placing in its path the antagonistic principle, that the many should be governed by the few. What, then, would England surrender to preserve the peace of the world, and thus give the first practical proof of moderation to be found in the long annals of her history? I agree fully with the honorable Senator from Missouri, [Mr. ATCHISON,] that if England would acknowledge our rights, and withdraw her opposition to them, and should then ask a better access to the ocean for her interior territories, I would grant it without hesitation, as a favor, upon the most reasonable consideration. If this should be done, she would have left about three hundred miles of coast to fight for; and I will return the question of the gentleman from Maine, and ask if this strip of land is worth the price of such a contest? England is already gorged with possessions, both continental and insular, overrun, almost overloaded with subjects of all castes, colors, and condition. At this very moment, she is waging two wars of aggrandizement—one for commercial projects upon the La Plata, and the other for a new empire upon the Indus. The latest Morning Chronicle I have seen, one of last month—and that paper is the Whig organ of England—says, and the proposition is enunciated with characteristic coolness, and with as much apparent candor, as if it were extracted from the latest treatise upon public morals, "*we can never govern India so well as we might, until we possess the whole of it.*" A congenial sentiment is quite as much at home in every English breast, that *America would be much better governed than it is, if England possessed the whole of it.*

Let the British Government now say, two wars at the same time are enough for the purpose of aggrandizement. We will not encounter a third—we will give up this doubtful and disputed claim, and hold on in America to what we have got—we will do so much for peace. Let her do this, and I, for one, will say, *well done.* You begin to practice, though upon a small scale, as you preach. And why not do so? This territory is separated by an ocean and a continent from England. She cannot long hold it, if she should gain it. I mean long, compared with the life of nations; whereas it joins us, intervenes between us and our communication with the Pacific, will form an integral—I do not doubt a perpetual—portion of our confederacy, will be, in time, a necessary outlet for our population, and presents all those elements of contiguity and of position, which indicate and invite political unions.

But it has been said and resaid, in the Senate and out of it, that two great nations cannot go to war. And why cannot two great nations go to war against one another, as well as two great nations combined against one another, as well as two great nations combined against a small one? So far as honor contemns a disparity of force, the former would be much more honorable than the latter.

What is going on in the La Plata, where France and England have sent their united fleets and armies against the Argentine Republic, and where the echoes of their cannon are ascending the Parana and its vast tributaries, till they are lost in the gorges of the Andes?

There can be no war in this enlightened age of the world! What, then, is passing in Africa, where one hundred thousand Christian bayonets have driven the Arab from his home, and are pursuing him into the desert, the refuge of the turban since the days of the patriarchs?

What is passing upon the shores of the Euxine, where the Cossack has left his native plains, and, at the call of Russia, is ascending the ridges of the Caucasus to subdue its indigenous races, and to substitute the *mild* rule of the Muscovite for their own patriarchal form of government—dependence upon the Czar for dependence upon themselves?

And what is passing in the Punjaub, where the last advices left two mighty armies almost within sight of each other, after having fought a great battle of Hindoo *ambition* against English *moderation?*

And how long since an enlightened Government, *par excellence,* broke the barrier of Chinese power, which has so long insulted a vast empire, and scattered dismay and death along its coasts, because its rulers had interdicted the sale of opium, a drug equally destructive to the moral faculties and to the physical powers of man? The Tartar passed the great wall, and planted his horse tails upon the towers of Pekin. He then became a Chinese, and the empire went on as before. But the Englishman, with his cannon balls and his opium, has introduced an innovation into the

habits and condition of one-third part of the human race, which may fatally affect its future prosperity.

And how long is it since an English army passed the gates of Asia, and, ascending the table-land of that continent, if it had not been annihilated by a series of disasters, which have few parallels in modern warfare, might have reversed the march of Alexander, and reached the Mediterranean by Nineveh, and Babylon, and Jerusalem?

And only five short years have elapsed since Christian cannon were heard in the mountains of Lebanon, and their bombs exploded among the broken monuments of Sidon.

In this brief view and review of pending and recent wars, I do not advert to the hostilities going on among some of the States of Spanish origin upon this continent, in Hayti, in Southern Africa, upon the frontiers of the colony at the Cape of Good Hope, in Madagascar, and in various islands of the Eastern ocean, because these are small wars, and some of them are waged by civilized nations against barbarous tribes, and hardly worthy of attention in these days of philanthropy—of that philanthropy which neglects objects of misery at home, whether in England or Ireland, the relief of which would be silent and unobtrusive, and seeks them everywhere else through the world, that they may be talked of and exhibited as proofs of benevolence—which, as an eminent French writer says, overlooks the wants of our neighbors, but goes to the north pole upon a crusade of charity! which has an innate horror at the very idea of black slavery, but looks calmly and philosophically, and with no bowels of compassion, nor compunction of remorse upon white slavery and brown slavery, amounting to millions upon millions in Russia, and in the English possessions in India and elsewhere, because, forsooth, this servitude is not the United States, and neither cotton nor sugar will be affected by it.

These, and the Belgian war, and the Spanish war, and the Greek war, are events of but yesterday, yet sounding in our ears, and dwelling upon our tongues. And I might go on with these proofs and illustrations of pugnacious disposition of the world, till your patience and mine were exhausted.

Why, sir, if England had a temple of Janus, as Rome had of old, it would be as seldom shut, as was that of her imperial prototype. The first fifteen years of this very century were nearly all passed in the greatest war known perhaps in the annals of mankind; and there are Senators in this body, and I among the number, who were born at the close of one war with England, and have lived through another, and who are perhaps destined to witness a third. And yet zealous but-ill-judging men would try to induce us to cast by our armor, and lay open our country, because, forsooth, the age is too enlightened to tolerate war. I am afraid we are not as good as *these peace men, at all sacrifices, persuade themselves and attempt to persuade others.*

But, sir, to advert to another topic. I perceive—and I am hap-

py to find it so—that there has been a nearer union of sentiment on one branch of this subject between the honorable Senator from Maryland and myself than I had supposed. All I regret is, that he had not avowed his opinion earlier in the session; for I should have felt myself greatly encouraged in my course by the identity of our views respecting the danger of the country. The honorable gentleman says: "We all have felt at one time, at least—I trust that that time has passed—the nation was in imminent danger of war." "From the moment the President of the United States deemed it right and becoming, in the very outset of his official career, to announce to the world, that the title of the United States to the northwest territory was clear and indisputable, down to the period of his Message in December, when he reiterated the assertion, I could not see how it was possible war was to be averted." "I could not but listen with dismay and alarm at what fell from the distinguished Senator from Michigan at an early period of this session."

Now, sir, I have not the slightest wish to misinterpret the sentiments of the Senator from Maryland; but I frankly confess I do not understand how, with the opinion he expresses, that war was unavoidable, any remarks of mine could have been thus characterized. I am well aware, indeed, that they came like a bomb-shell into a powder magazine. But why, I have not yet to learn. Like the honorable Senator from Maryland, the moment I read the President's Message, I saw, to my own conviction at least, that our duty, as representatives and sentinels of the people, required us to take measures of precaution, proportioned to the danger, whatever that might be. The President, with a due regard to his own responsibility, as well as to the just expectation of his countrymen, spread before us, not only his own views and recommendations, but the whole diplomatic correspondence, which had passed between the two Governments, on the subject of Oregon. Well, we all saw there was a dead halt in the march of the negotiations. The President told us, in effect, they were closed. I am not, sir, very tenacious as to the word. I do not attach that importance, in fact, to the condition itself, which the Senator from North Carolina appears to do. I am willing to call it closed, or terminated or suspended, or in the Executive phrase, "dropped." All I wish to show is, that nothing was going on. Why the honorable Senator from North Carolina dwelt with such earnestness upon this point, I do not comprehend, unless, indeed, he supposed, that if the negotiations were closed, they were closed forever, beyond the reach of the parties. If such were his views, I do not partake them. I trust no question of mere etiquette will keep the parties separated, if other circumstances should indicate they might be brought together. Such a course of action, or rather of inaction, would deserve the reprobation of the whole world. But however this may be, the President said, *that all attempts at compromise had failed.* These are his words. He invited us to give the no-

tice, for the termination of the joint occupation of the country. He said it was all ours, and *that our title to it was maintained by irrefragable facts and arguments;* and he said, also, that at the end of the year, the temporary measures, which a regard to treaty stipulations allowed us only to adopt at this time, must be abandoned, and our jurisdiction over the whole country established and maintained. Such were, in effect, the views submitted to us by the Chief Magistrate of the nation, in the discharge of a solemn duty, committed to him by the Constitution.

One would think there were elements enough of trouble to engage the attention of the National Legislature, and to command its immediate action. If the ship of State were to be steered by the chart thus prepared by the pilot, either Great Britain must turn from her course, or we must meet her. There was no other alternative. She must gainsay much she had said. She must relinquish much she had claimed. She must concede much she had denied. She must do what a proud nation does with reluctance—retrace her steps in the face of the world, and lower herself in her own estimation. I did not say she would not do all this. I do not say so now. But looking to her history, to her position, and to the motives of human conduct—as these operate upon communities, as well as upon individuals—I had great difficulty in believing that she would do it, and I said so. And there was yet another element of uncertainty, combined with all these causes of embarrassment, and that was the doubt, if she came to the parallel of 49°, whether she would find our Government ready to come back to the same line. I know nothing of the intentions of either Government upon that subject. I cannot speak authoritatively, and therefore I do not undertake to speak at all. I know as little as any one in this room, be he actor or spectator in the scene that is passing. Whether the offer would be accepted, if repeated, or whether it would be repeated, if demanded. All I know is, that as the basis of an amicable adjustment, that time, which while it mends some things mars others, is every day increasing the difficulty of its establishment; and that, as a means of terminating this controversy, I believe the question is rapidly passing from the control of the Government to the control of public opinion.

Under these circumstances, I introduced resolutions of inquiry into the necessity of adopting measures for the defence of the country, and, on the 15th of December, I advocated their adoption and explained my views, of which I have now troubled the Senate with a brief summary, and to which the honorable Senator says he listened with "dismay and alarm." "Dismay and alarm" at propositions for defence, when the gentleman himself says that "the nation was in imminent danger."! When "he could not see how it was possible war was to be avoided!" For it will be observed, they were subsequent by some weeks, which removed this impression of the danger of war made by the President's Inaugural Address, and by his Message at the commencement of the session.

They were the speeches of the Senators from Missouri and New York, and especially the speech recently delivered by the Senator from North Carolina. For myself I did not hear one word fall from the Senators from Missouri and New York, so far as I recollect, in which I did not fully concur. The former, besides the authority which long experience, high talents, and great services to his country and his party, give to all he says, here and elsewhere, understands this whole subject better perhaps than any man in the nation. And we all have borne our tribute of gratification to the able and statesmanlike exposition of the matter given by the Senator from New York. I did not understand either of these Senators, as alluding to the ulterior course of the President, or seeking to express any opinion respecting the result of this controversy. And I will ask the Senator from Maryland whether, upon a grave question like this, it is not safer and wiser to deduce the views of the President from two public and solemn documents, spreading before his country, his opinions and fore-shadowing his course, rather than from the construction given them by others, and resting upon what is called acts of *omission* and of *commission*.

It is not a little curious, but it is nevertheless true, that during the discussions brought out by my resolutions, gentlemen on the other side of the Senate took the opportunity of expressing their entire concurrence in the views and course of the President, and avowed their gratification at the Executive statements and recommendations. Though a condensed narrative of the negotiations accompanied the Message and formed the groundwork of the suggestions submitted to us, and though the correspondence was spread out in full before us. What is now thought upon this subject on the other side of the chamber, it needs not that I should tell. The views there expressed are as unequivocal as they are condemnatory. "We all have felt," says the Senator from Maryland, "that war was imminent," and still more emphatically, "I could not see how it was possible war was to be averted."

But I may be permitted to ask the honorable Senator, if war, in his opinion, was thus imminent, and not to be averted, how happened it that my remarks "filled him with alarm and dismay?" I thought there was danger of war, and so it appears did he. And his estimate of the danger was higher than mine; for I thought that among other means of avoiding it, instant and adequate preparations might exhibit such powers of offence and defence, and such a spirit in the country, that England might pause before she would drive us to the last alternative of injured nations. And therefore was I so anxious for an immediate and decisive manifestation upon this subject. But we have all suffered these resolutions to sleep, as I remarked the other day, if not the sleep of death, a slumber almost as quiet; and though they were a little startled by the President's Message, still, before their full resucitation into life, it may be necessary, that that same solemn warning should penetrate these marble Halls, which has said to other improvident nations,

awake! the enemy is upon you. If, then, both the Senator and myself were apprehensive of war, and he thought it could not be averted, the "dismay and alarm" which my remarks occasioned, did not result from any difference of views upon that subject. And, as these remarks had but two objects—one to show the danger we were in, and the other to guard against it—it would seem to be the latter at which the honorable Senator took exception; and it is certainly a cause of mortification, that I managed my subject so awkwardly, as to convert my propositions for defence into a matter for "alarm and dismay."

Since, then, however, sir, another note of warning has reached us from the eastern hemisphere, and we not only know that England is arming, but the sovereign herself has announced the fact in the most imposing manner, and has called upon Parliament to extend these armaments still further. And we now exhibit to the world the extraordinary spectacle of a nation in a state of perfect tranquility—I might rather say of apathy, almost—without an army, without a militia—for our militia is unfortunately nearly disorganized—with unfinished and insufficient defences, with an inadequate supply of the *materiel* of war, with a navy calculated only for a state of peace, with three thousand six hundred miles of seacoast on the Atlantic, and one thousand three hundred miles on the Pacific, and four thousand one hundred miles of interior frontier from Eastport to the line where 54° 40 strikes the ocean, and two thousand four hundred miles of interior frontier from the southwestern corner of Oregon to the Rio del Norte—making a boundary of eleven thousand four hundred miles, agreeably to the calculation I have procured from the librarian, and penetrable in all directions. While, at the same time, we are involved in a great controversy with the most formidable nation—formidable in the means of injuring us—upon the face of the globe, which is buckling on its armor, and telling the world, through its sovereign, that it will maintain its interests and honor—which, being translated into plain American, means that it will hold on to its claims.

Mr. President, a great deal has been said, both here and elsewhere, respecting the probability of war—whether it will result from the present condition of the two nations. Some gentlemen think this is a legitimate subject of inquiry, arising out of the principal question—that of the notice—directly before us; while others think we should decide the question on its own merits, leaving out of view the consequences, to which it may lead. Certainly, a question of territorial right should be judged and determined nakedly, and unembarrassed by other considerations. We owe that to our own honor. Still, it becomes prudent men, especially prudent statesmen, when taking an important step, to look to its results. Neither national nor individual acts insulated—one measure leads to another. It seems to me it is not only our right, but our duty, as the Representatives of the States, to inquire where this measure will conduct us. If to a stable peace, so much the better.

If to war, let us contemplate its prospects and its dangers, and let us prepare for its consequences. But, at any rate, let us commune together, and not blindly rush into the future, rather driven by our instincts, than guided by our reason.

Our first object is to preserve our rights; our next to do that peacefully. While we all hope that war will be averted, that hope will never be strengthened by underrating the capacity of either nation to defend itself, or to injure its opponent. For my own part, I see no want of patriotism in stating plainly and frankly the means of annoyance that England possesses; and I think the course of my honorable friend from Delaware upon that subject was equally patriotic and injudicious. There is said to be a bird in the desert, which hides its head in the sand, and then thinks it is safe from danger, because it cannot see it. Let us not imitate this folly. Let us look directly at what we must encounter, if we are forced to war, and then let us behave like reasonable men, and make reasonable preparation to meet it.

I see it said in a late London Herald, that we cannot carry on war, because we cannot procure the means to meet the necessary expenditures. The same assertion has been made in some of our own journals, and even by higher authority. The Senator from South Carolina has referred in this connexion to a venerable man, for whom, and for whose patriotic services, I have great and sincere respect, who has awakened from a political slumber of almost a quarter of a century, and presents himself to his countrymen with elaborate statistical tables, showing the pecuniary cost of war, and the burdens it brings with it. All this is unnecessary. It is taught in the very horn-book of national expenditures. Ours is not a question of the cost of war, but of its necessity. That same eminent man, the survivor of the cabinets of Mr. Jefferson and of Mr. Madison, was understood, in 1812, to entertain a similar repugnance against committing the destinies of his country to war, which he now exhibits, and to foreshadow similar difficulties. I do not know if the fact be so. I can repeat only the rumors of that day. It was then asserted and believed, that some report or document from the Secretary of the Treasury was intended to dampen the national ardor, by an imposing array of the contributions it would be necessary to levy upon the country, in the event of war, and thus to prevent its occurrence. But the effort, if made, was useless then, and it will be useless now. The war went on, because it could not be avoided without a sacrifice of the national rights and honor, and it came to a glorious conclusion. It pushed us forward in all the elements of advancement. And as we did then so shall we do now. If a war is forced upon us, we shall meet it with its dangers and its responsibilities. No array of figures will stop the people in their patriotic course. You might as well attempt to stop the surges of the ocean beating upon the sea coast by marks in the sand, which the first wave sweeps away, and then passes on.

As to this notion, that a war cannot be maintained without cash

enough in the possession of the Government to carry it on, or the means of procuring it at any time by loans, the two successful experiments we have made have demonstrated its fallacy. I do not stop to point out the peculiarities in our condition which prevent our national exertions from being paralyzed by deficient resources. They are to be found in the spirit and patriotism of our people; in the common interest they feel in a Government, established by them, and responsible to them; in the system of private credit, which almost makes part of our institutions, and which often separates by wide intervals the purchase and the payment; in the abundance and cheapness of the necessaries of life, and in the military ardor which stimulates our young men and sends them to the standard of their country. No modern Crœsus, be a king of financiers, or a financier of kings, holds in his hands the action of this Government. But even in Europe, a decisive experiment has shown, that the exertions of a nation are not to be crippled by a crippled treasury. One of the great errors of Mr. Pitt arose from his belief, that as the French resources and credit were deranged and almost destroyed, therefore, France was incapable of the necessary efforts to defend herself against the formidable coalition, at the head of which England placed herself, and to maintain which she poured out her blood as freely as her treasure. But the result proved the folly and the fallacy of all this, notwithstanding the depreciation of the French paper, and the difficulties consequent upon it. What was the progress and the result of this effort to prevent a people from changing and reorganizing their government, is written upon the pages of a quarter of a century of war, and still more plainly upon the oppressed taxation of England; which now weighs upon her present condition like an incubus, and overshadows her future with dark clouds of adversity.

I now propose to submit some observations upon the remarks presented to the Senate a few days since, by the distinguished Senator from South Carolina. The originality of his views, and the force of the illustrations with which they were supported, give them great consideration; and as it seems to me, that in some important particulars, their tendency is erroneous, I desire to communicate the impression they made upon me.

While I shall do this, with the freedom which a sincere search after truth justifies, I shall do it with the respect that the eminent services and high character of the Senator justify, and that an uninterrupted friendship of thirty years, which has been to me a source of great gratification, naturally inspires.

The Senator states, that when this proposition for notice to terminate the joint occupancy of Oregon was first submitted for consideration, he was opposed to it. But that now he is in favor of it in some modified form; the form, I believe, it assumes in the resolution of the Senator from Georgia.

That his motives of action were the same in both cases—a desire to preserve the peace of the two countries; that in the former

part of the session, he thought the notice would lead to war, and therefore he opposed it; that he thinks now it would lead to peace, and therefore he favors it.

Certainly, Mr. President, this is consistent ground for any man to occupy. A change of action on questions of expediency, where circumstances have changed, is a dictate of true wisdom. He who boasts he has never changed, boasts, in fact, that the lesson of experience have been lost upon him; and that he grows older without growing wiser. But before a change takes place in our approbation or condemnation of a great question of national policy, the reasons which dictate it should be carefully considered, and clearly established.

Has this been done by the Senator from South Carolina? I think not. He assumes the very fact, upon which his whole argument rests. He assumes that a great change has taken place both in this country and in England, in public opinion upon this subject, which will necessarily lead to a compromise, and thus to an amicable adjustment of this serious and long pending controversy.

Of the fact itself, thus alleged, the Senator furnishes no proof. Indeed, he attempts to furnish none. He merely says: "There is one point, in which we must all be agreed, that a great change has taken place since the commencement of this discussion in relation to notice, in its bearings upon the question of peace or war." "Public opinion has had time to develope itself, not only on this, but on the other side of the Atlantic, and that opinion has pronounced most audibly and clearly in favor of compromise."

"As things now stand, I no longer regard it as a question whether the controversy shall be pacifically arranged or not, nor even in what manner it shall be arranged. I regard the arrangement now simply a question of time," &c.

Mr. President, I cannot partake this confidence. The signs of the times are anything but auspicious to me. It will be perceived, that the annunciation thus certainly made of the peaceful termination of this matter, rests upon the change in public opinion and upon the conviction, that both Governments are ready to compromise, and both prepared to come to the same line; so much so, indeed, that the Senator adds, "he trusts that in concluding it there will be no unnecessary delay.

In all this, sir, I am under the impression, there is a great misapprehension. As to the *universality* of the proposition, *that all are agreed as to this change*, I know there is an error. For myself, my conviction is as strong as human conviction can be, not only that the change thus indicated has not taken place, but that a great change has been going on in a contrary direction. I believe that the opposition to a compromise upon the parallel of 49° has increased, is increasing, and will go on to increase; and that both here and in England, public opinion is less confident in an amicable settlement of this dispute. I shall not pursue this matter into its details. I will merely remark, that the evidences of pub-

lic opinion, which reach us, whether borne here by letters, by newspapers, by the declarations of conventions, or by the resolutions of legislative bodies, is decisive and indisputable. And, in proof of this, look at the passage of the resolutions in the House of Representatives by a majority almost unknown in a free country upon a great question like this, and involving such momentous consequences; and this, too, when the Senator says, he thought their passage would lead to war. And what say the advices from England? They speak a language as positive, as it is minatory. What says the "Standard," of March 3d, the great Tory organ? I will tell you: "But will the American Congress confirm the insolent and unwarrantable tone adopted by this *braggadocio?*" &c. And the person thus denominated by these models of all that is decorous, so often recommended to us for our study, is the President of this great Republic. "And dreadful as is the alternative, it will be with the utmost difficulty that any British Minister can escape from it with honor." The last London Times that I have seen says:

"The joint navigation of the Columbia, the right of harbors on the sea-coast, and the right of traffic for the Hudson Bay Company on one bank of the river, are, we think, demands neither unjust nor extravagant." The London *Gazette*, of March 3d, says:— "*The news from the United States justifies the fears we have repeatedly expressed of the determined spirit of hostility which pervades a powerful party in the United States.*" The London *Sun*, a neutral paper, says: "The news from this country has produced a strong feeling of indignation among our commercial circles; and those who have all along opposed the expediency of war, on account of mercantile connexions, now openly claim a vindication of the honor of the country at the hands of the Executive." "The feeling everywhere is, that England, having shown as much forbearance as is compatible with her station in in the scale of nations, is now called upon to treat the proceedings of the American legislators with the contempt they deserve." The Liverpool *Courier* of March 4th, says: "The consequences to which it may lead (the refusal to arbitrate) may be most calamitous. But the Americans will only have themselves to blame, if war ensues; for England has done all in her power to bring matters to a satisfactory and peaceful issue." Such are the evidences of public opinion in Engiand, which the last packet brought us; and of the favorable change there, which renders a compromise certain, and a question only of time.

The honorable Senator has referred, in this connexion, to the declaration of Sir Robert Peel, made some time since in the British House of Commons, that he regretted their Minister had not transmitted to his Government the proposition of a compromise upon the parallel of 49 degrees; that if not satisfactory, it might have been made the basis of a modified offer. I am not inclined to draw as favorable a conclusion, however, as the honorable Sena-

tor, from this incidental remark, made, not to us, but in the course of a Parliamentary discussion. In fact, it is so cautiously expressed, as to lead to no useful deduction respecting his real views. It is a mere barren remark. Had the Premier intended it should produce any practical consequences, he would have communicated to our Government the views of the British Cabinet, and would have accepted the offer, or returned it with the proposed modification. But we hear nothing of this disapprobation—no, not disapprobation, but of soft regret at the hasty decision of the British Minister here—till six months after it took place, and then we learn it in the public debates, and that is the last of it. It is to me a curious chapter in the history of British diplomacy, that a Minister would venture to take the grave responsibility of rejecting such a proposition, without referring it to his Government, and he is not even censured for it. If he had been recalled, or a successor sent out, with instructions to accept the propositions made by our Government for a compromise, we should then have had a proof of sincerity better than a barren declaration, and which might have led to a better state of feeling

The Senator from South Carolina has entered at some length into a defence of his views respecting the acquisition of Oregon, by what is called the process of masterly inactivity. And if he has not made converts to his opinion, he has gained many admirers of his talents by his masterly vindication of it.

Certainly, sir, it is often the part of true wisdom in this world to stand still—to wait for time and circumstances. There is a great deal of wisdom in old proverbs, and one of them says, "*Let well enough alone.*" Time has wrought many wonders for our country, and is destined to work many more. The practical difficulty is, to determine when inaction should cease and action commence, and how the operations of time can be best aided by enterprise and industry. The honorable Senator says, that circumstances have got ahead of his system, and that he adverts to the subject, not to apply it, but to defend it. It seems to me, sir, it never could have produced the results the Senator anticipated, and produced them peacefully.

Here was an open question, which, for almost forty years, had occupied the attention of the two countries, which had been kept at arm's length by an improvident arrangement, instead of being grappled with and adjusted, as it could have been, and should have been, long ago, and which had at length increased to a fearful magnitude; and, what is still more, had begun to enlist passions and feelings, and interests, that threatened to take the controversy from the pen, and to commit it to the sword. The claims of two great countries to a distant territory were unsettled, and in a condition unprecedented in the history of national intercourse. Each with a right to occupy the whole of the territory, but each liable to have this right defeated by the previous action of the other party—each holding a remote possession, beginning to fill up by emi-

gration with their respective citizens and subjects, hardy, enterprising, and somewhat pugnacious, intermingled upon the same soil, seizing it as they could, and holding it as they might, without any of those improvements, which require for their creation and support the joint and legal action of a community, and wholly irresponsible for their acts towards one another, except through the medium of tribunals belonging to the party claiming allegiance over the aggressor, and possessing no sympathy with the complainant. · The end of all this may be foreseen without the gift of second sight. Collisions must be inevitable. The only wonder is, they have not already occurred. And the first gun that is fired upon the Columbia, will send its echoes to the Potomac and the Thames. And think you, that the matter will be coolly examined, dispassionately discussed, and amicably arranged? No, sir; each nation will believe its own story, and both will be ready to arm, and assert its honor, and defend its citizens. All history is full of these indictments; and the peace of two great nations is now held by the slightest tenure, dependent upon passions and interests to be called into fierce action upon the shores that look out upon China and Japan. We are told that time is the great physician, who might have cured this disordered state of our political affairs. I am a firm believer in the silent and ceaseless operations of that mighty agent. But this case was beyond its power. If, indeed, time would stand still for one of the parties, and move only for the other—stand still for England, and move on for us—our state of progress would soon pour through the passes of the Rocky Mountains a host of emigrants who would spread over all the hills and vallies from the summit of that great barrier to that other barrier, the ocean itself, which says to the advancing settlements,—Come no farther. But neither time nor England would stand still. Her Government is sagacious, alive to her interests, and ready to maintain them. She knows the value of the country as well as we do, and appreciates it perhaps higher. No one can read the speeches in the House of Commons on the 4th of April last, without being sensible, that the subject, in all its extent, has occupied the attention of the British Government, and that the country itself will occupy its fostering care. Think you that that Government would have continued to see band after band of our citizens leaving our frontier settlements, lost to human observation almost for months while passing through the desert with its toils, its privations, and its dangers, and finally emerging into the land of promise, to seize it, and to hold it, and would have looked calmly on, receding as we advanced, retreating to the hill as we descended into the valley, and finally yielding us quiet possession of this long disputed territory? He, who does not believe all this, must believe that time would not have peacefully adjusted this controversy for us. But, besides, this process of adjustment does not assume that our right to exclude the British from the country will be increased by settlement. It may add strength to our power, but none to our title.

It does not presuppose that war is to be averted, but only postponed. The rights of England, at the end of any given period, will be precisely what they now are; and, unless she should voluntarily relinquish them, a conflict would be inevitable. It seems to me very clear, that if she would ever be disposed to abandon the country, she would do it now, when the disparity of force there is not such as to cast the reproach of timidity upon her counsels, and when the number of her subjects is not such as to render difficult a satisfactory arrangement for them.

Mr. President, the Senator from South Carolina has held up to our view a sombre picture of the calamities, which a war with England would bring upon the United States—too sombre, sir, if I am not utterly ignorant of the history and condition of my country, and of the energy and spirit of my countrymen. I shall not examine it feature by feature; but there are certain portions I desire to present to the Senate.

What probable circumstances could require this country to keep up a military and naval force of two hundred thousand men for ten years—the land portion of it divided into seven great armies—I confess my utter inability to conjecture. Why the honorable Senator fixes upon that period for the duration of the war, I know not. It is so wholly conjectural as to elude the application of any principle to it. Long before its expiration, if we are not utterly unworthy of our name and our birthright, we should sweep the British Power from the continent of North America, and the remainder of the time must be occupied by predatory incursions upon the coast and by hostilities upon the ocean. The dangers or disasters, which this state of things brings with it, would require but a small portion of the force considered necessary by the Senator. As to Mexico, I trust we shall bear much from her. We owe that to our own strength and to her weakness; to our own position, not less than to the situation of her Government and to the *quasi* civil war, which seems to be the curse of her condition. But should we be driven to put forth our strength, peace would ensue, and speedily; but it would be a peace dictated in her capital, and placing her political destiny at our disposition.

And besides, during the progress of such a war, to which the honorable gentleman alludes, who can tell the sphere of its operations, and what nations would become parties to it? How soon would the great maritime questions of our day present themselves for solution? How long would it be before England would revive and enforce those belligerent pretensions, which drove us to war when we were neutral, and which would drive other nations to war occupying the same position? How long before the violation of her flag would arouse the public feeling of France, and compel her Government to vindicate its honor? And who can tell what war of principles and opinions would come to add its excitement and passions to the usual struggles of contending nations? The world is, indeed, in comparative repose; but there are causes in

operation which, if quickened into action by peculiar circumstances, might shake the institutions of Europe to their very foundations. I consider a war between England and the United States for ten years, or for half of that time, utterly impossible, without bringing into collision the great questions of our day—the right to govern and the duty to submit—and into fierce action the interests and passions, which such a struggle would excite—a struggle that must come, but which such a war would accelerate.

In order that I may remove even the possibility of misinterpreting the sentiments of the Senator, I will read an extract or two from his speech. After alluding to the material horrors of war, and doing justice to the courage of his countrymen, he adds, that a war between us and Great Britain, such as has been described, "in which every nerve and muscle would be strained to the utmost, and every dollar put in requisition which could be commanded, could not fail, under present circumstances, to work most disastrous, and I fear incurable changes in the social condition of our people, and in their political institutions." He then adverts to the consequences of such a war, drawing after it a Mexican war and an Indian war. He thinks we should need two fleets, six or seven armies, one hundred million of dollars annually, and a proportionate system of taxation. He then continues, after showing the destruction of the State governments, and the consolidation of all power in the central authority, and that our very success would engender a spirit inconsistent with the genius of our Government: "It would then be a straight and downward road, which leads to where so many free States have terminated their career—a military despotism. In the mean time we should have to provide for three or four successful generals, who would soon be competing for the presidency, and before the generation, which would have waged the war would have passed away, they might possibly witness a contest between hostile generals for that supreme office—a contest between him who might conquer Mexico and him who might conquer Canada, terminated by the sword."

But permit me to ask the Senator from South Carolina, if all this were so, if his anticipations were certain, instead of being puely gratuitous, ought the assurance of such events to come from him, from such a high authority, in so high a place? In the Senate of the United States, and from one who has filled some of the most important positions in our Government; whose services and talents, and character, give him great consideration with his countrymen; who possesses a European fame; and whose opinions are quoted at this moment in London and Paris as indications of our policy, and of the final result of this controversy? Is it well thus to announce to the world our incapacity to defend ourselves? For that is in fact the result. A government dissolved, or rather changed to a despotism, a country ruined, and eventually its fragments a prey to ambitious generals, as the empire of Alexander was partitioned among his lieutenants! War, then,

becomes not a measure of safety, but a signal of destruction to the American people. We are powerless to defend ourselves. If we are struck upon one cheek, we must turn the other; not in a spirit of Christian charity, but in the despair of helplessness. We are bound together by a fair-weather Government, incapable of riding out the storms of foreign aggression. Submission must be our refuge, for beyond submission is destruction. We shall exhibit the extraordinary spectacle of a great people, great in all the elements of power and prosperity, saying to the world, in effect, we cannot contend with England; we are at her mercy, for even success would ruin us.

Now, sir, this is not so. There is not one man within the sound of my voice whose heart does not tell him, *such has not been your past—such will not be your future.* The honorable Senator, in looking at the real calamities of war, which I seek neither to conceal nor to deny, has suffered himself to overrate them. They have struck him more forcibly than they should do. The experiment of two wars with England, into which we entered, and from which we issued gloriously, puts the stamp of error upon these sad forebodings. How they pushed us forward, in character and position among the nations of the earth, I need not tell; nor need I say, that the march of this country in all that constitutes the power and happiness of a people, is a practical proof, that those conflicts left no wounds upon our institutions, and but temporary checks upon our prosperity.

The honorable Senator has appealed to his past history in proof, that in presenting these views he acted in no unmanly fear for himself, and that if war comes, he would be among the last to flinch. No, Mr. President, no one in this nation doubts that his course would be firm and patriotic, should war be forced upon us. But he will permit me also to appeal; to appeal from the Senator of 1846 to the Representative of 1812. He is the *Ultimus Romanorum*—the last of the Romans; the sole survivor among us of a generation of statesmen, who have passed from the legislative service of their country. The last of the actors, not of the signers, who gave to the world our second declaration of independence, scarcely inferior in its causes and consequences to the first. He came here young, unknown to his country. He left these halls with a maturity of fame, which rarely falls to the lot of any statesman. I was then upon the frontier, and well do I remember with what straining eyes and beating hearts we turned towards the Capitol, to know if the honor and interests of our country would be asserted and maintained. There were then two men here, upon whom, more than upon any others, perhaps more than upon all others, devolved the task of advocating the war, and of carrying through the measures of the Administration. And nobly did they perform their duty. They were the honorable Senator from South Carolina, and a retired statesman, Mr. Clay, from whom, though it has been my fortune to differ in the party contests that divide

us, yet it has always been my pride to do justice to his eminent qualities, and to his high services to his country, and especially to his services during our last contest with England. They were the leaders of that great legislative war, who, like the Homeric heroes, threw themselves into the middle of the fight, and fought the battles of their party and of their country, with equal talents, firmness, and success.

As to the evils of war, he of us is blind to all historical experience, who does not see them, and unfaithful to his position, who does not acknowledge them. There is no such representative of the States here. We *all* acknowledge the evils of war, both moral and material. We differ as to their degree, and as to the power of this country to endure and to inflict them. While the condition of England presents great means of annoyance, it presents also palpable elements of weakness. I am not her panegyrist. I shall never be accused of that. But if I see the defects of her national character, I can see also her redeeming virtues. I am sensibly alive to the acts of injustice she has done us. The feeling is deposited at my heart's core. But I do not shut my eyes, either to her power or to the virtues she actually possesses. I need not tell what she has done to attract the admiration of the world; for her deeds of war and peace are written upon many a bright page of human story. She has reached a commanding eminence among the powers of the earth—a giddy eminence; and I believe she will find it an unstable one. I do not, however, estimate her present position as high as many do, and I consider it as unsafe as almost any one can. The elements of her weakness lie upon the very surface of her affairs, open to the most careless observer. But she has great military and naval establishments, and she is augmenting and extending them. I am not going to spread before the Senate the statistics of her powers of annoyance and defence. This has been sufficiently done already. But I will express my decided conviction, that these tabular statements give an exaggerated picture of her condition. Old vessels, old guns, mere hulks, invalids, the relics of half a century of war, are arranged in formidable lists of figures, and go on to swell the general aggregate.

Besides, she has peculiar drawbacks to the exertion of her power. The seeds of danger are sown in the most important province of her home empire, and may at any time start up into an abundant harvest of ruin and disaster. The dragon's teeth may become armed men.

She has possessions round the world to retain, and in many of them a discontented population to restrain. Her commerce, the very foundation of her prosperity and greatness, is scattered over all the bays, and inlets, and gulfs, and seas of the world; and he who knows the daring character and enterprise of our people, knows that our public and private armed vessels would almost sweep it from existence. But I shall not pursue this investigation

further. While I believe she will go to war with us, if she cannot escape from it without wholly sacrificing her own honor, as she views the question, I recollect she has done so twice before, with no credit to herself, but with imperishable glory for us.

A few words as to the condition of her finances, and her means of carrying on a war. It is said to be the last feather, that breaks the camel's back. That the time will come when the artificial and oppressive fiscal system of England must break down, and, like the strong man of Israel, involve her existing institutions in the fall, is as certain as any future political event can be. But that time has not yet come, and he must be a bolder or a wiser man than I am, to predict when it will come. She has the same means now to meet her war expenditures, which she has long had: the power of drawing upon the future for the exigencies of the present, leaving the generations to come to pay the debt, or to cast it off, like a burden too heavy to be borne. At this very moment she is making an experiment, which will be almost a revolution. A wise experiment, as I believe, but still a fearful one, for an old society, whose habits are fixed, and which accommodates itself with difficulty even to gradual changes.

As to the points of contrast between our condition and that of England, they are before the world; and for the purposes of peace or war, we need not fear the most searching examination.

Happen what may, we can neither be overrun nor conquered. England might as well attempt to blow up the rock of Gibraltar with a squib, as to attempt to subdue us. I suppose an Englishman even never thinks of that, and I do not know that I can exhibit in stronger terms its impossibility.

I might easily spread before the Senate our capacity to annoy a maritime adversary, and to sweep the British flag from this part of the continent; but I forbear. What we have twice done in the days of our comparative weakness, we can repeat and far exceed in these days of our strength. While, therefore, I do not conceal from myself, that a war with England would temporarily check our progress, and lead many evils in its train, still I have no fear of the issue, and I have an abiding confidence, that we shall come out of it, not indeed unharmed, but with all the elements of our prosperity safe, and with many a glorious achievement written on the pages of our history.

It pains me, sir, to hear allusions to the destruction of this Government, and to the dissolution of this confederacy. It pains me, not because they inspire me with any fear, but because we ought to have one unpronounceable word, as the Jews had of old, and that word is *dissolution*. We should reject the feeling from our hearts and its name from our tongues. This cry of "*wo, wo,* to Jerusalem," grates harshly upon my ears. Our Jerusalem is neither beleaguered nor in danger. It is yet the city upon a hill, glorious in what it is, still more glorious, by the blessing of God, in what it is to be—a landmark, inviting the nations of the world,

struggling upon the stormy sea of political oppression, to follow us to a haven of safety and of rational liberty. No English Titus will enter our temple of freedom through a breach in our battlements, to bear thence the ark of our constitution and the book of our law, to take their stations in a triumphal procession in the streets of a modern Rome, as trophies of conquest and proofs of submission.

Many a raven has croaked in my day, but the augury has failed, and the Republic has marched onward. Many a crisis has presented itself to the imagination of our political Cassandras, but we have still increased in political prosperity as we have increased in years, and that, too, with an accelerated progress unknown to the history of the world. We have a class of men, whose eyes are always upon the future, overlooking the blessings around us, and for ever apprehensive of some great political evil, which is to arrest our course somewhere or other on this side of the millenium. To them, we are the image of gold, and silver, and brass, and clay, contrariety in unity, which the first rude blow of misfortune is to strike from its pedestal.

For my own part, I consider this the strongest government on the face of the earth for good, and the weakest for evil. Strong, because supported by the public opinion of a people inferior to none of the communities of the earth in all that constitutes moral worth and useful knowledge, and who have breathed into their political system the breath of life; and who would destroy it, as they created it, if it were unworthy of them, or failed to fulfil their just expectations.

And weak for evil, from this very consideration, which would make its follies and its faults the signal of its overthrow. It is the only Government in existence which no revolution can subvert. It may be changed, but it provides for its own change, when the public will requires. Plots and insurrections, and the various struggles, by which an oppressed population manifests its sufferings and seeks the recovery of its rights, have no place here. We have nothing to fear but ourselves.

And the Senator from South Carolina will permit me to remark, that the apprehension he expresses, that a war may bring forward military chieftains, who would ultimately establish their own power upon the ruins of their country's freedom, is, in my opinion, if not the last of all the evils, one of the very last, which this Republic has to fear. I will not stop to point out the circumstances of our position, character, and institutions, which render a military despotism impossible in this country. They are written in burning characters, not upon the wall, but upon the heart of every American; and they need no seer to expound them. Our safety is our union; our only fear, disunion. In the moral government of the world, national offences are punished by national calamities It may be that we may forsake the God of our fathers, and seek after strange gods. If we do, and are struck with judicial

blindness, we shall but add another to the long list of nations unworthy of the blessings acquired for them by preceding generations, and incapable of maintaining them;—but none as signally so as we.

Mr. Benton, of Missouri, followed Gen. Cass, taking issue with him upon his geographical statements and questioning some of the authorities cited by him. To the remarks of Mr. Benton, Gen. Cass replied as follows:

Mr. President, I have come here this morning to set myself free. Twice in my life I have been captured by enemies—once fighting against British pretensions in war, and again fighting against British pretensions in peace. My country redeemed me in the former case—I come to redeem myself in the latter. I say enemies, but I trust the term is only metaphorically applicable. There is nothing in the former relations between the honorable senator from Missouri and myself, nothing in our present position, which should make us enemies. On the contrary, a long personal friendship has existed between us, which I did not suppose was sundered. If, however, it is otherwise, I must bear it as I may. I have borne greater calamities than even the hostility of the honorable gentleman from Missouri.

I came here, sir, as I said before, to redeem myself; and I mean to do it:—to do it by correcting a misapprehension—by speaking the truth.

> 'He is the freeman, whom the truth makes free;
> All else are slaves beside."

I will not speak in the triumphant tone which pervades the speech of the honorable senator from Missouri. It is not my habit. "Let not him that girdeth on his harness, boast himself as he that putteth it off." Let no man boast till the victory is won. And especially, let him not boast while his adversary is absent. What the senator said presents subjects enough for animadversion, but the manner in which he said it was still more unacceptable. I am ignorant of any circumstances, in our relative situations, which could justify it; still, I repeat, that I mean to vindicate myself, and that, too, to the entire satisfaction of every man within the sound of my voice.

Mr. HANNEGAN. Every impartial man.

Mr. CASS. No, Mr. President; I will not accept the qualification suggested by my friend from Indiana. If my vindication is not satisfactory to every man, partial or impartial, I will agree to be tied to the chariot wheels of the honorable senator from Missouri, and to fight the battles of forty-nine; and I hardly know two more severe punishments, that could be inflicted upon me.

The honorable senator says that I came here the other day to make a studied speech on the subject of Oregon. I did so, sir; and he overates his own powers, and underates the mental quali-

ties of the members of this body, who comes here to give his opinions upon a great national subject without due preparation. I shall not commit that folly; and I have too much regard for the intelligence and experience of the honorable senator to believe that he would. I presume that his thoughts are fully prepared upon every grave topic, on which he presents his views to this body. But however it may have been before, I have not had much time for preparation now, for I was not in my seat yesterday when the honorable senator made his attack, and of course I could not know, except from rumour, what he said till this morning.

Now, sir, what is the subject in controversy between the honorable senator and myself? He says that I am committed, by my own declaration, to go for forty-nine, if it is shown that commissioners were appointed under the treaty of Utrecht to establish that parallel as a boundary. This assertion is the whole foundation of his argument, upon which the whole superstructure rests. If the one falls, the other falls with it. Now, sir, I not only never said so, but the idea never occurred to me; I never thought of it. And the honorable gentlemen has wholly misunderstood me, either through my fault or his own.

He has erected a fortification for me, and battered it down with his own cannon. I choose to be shut up in my own defensive works only. If these are carried by siege or by storm, then I will surrender. But let me be my own engineer.

My position was this, sir. Many of the members upon this floor contend that the parallel of forty-nine degrees is the northern boundary of our claim in Oregon. Some directly so, and others because it was assumed to be such by our government in the early period of our controversy on this subject with England. To us, therefore, who believe that our claim in Oregon goes to fifty-four degrees forty minutes, it was essential to show there was an error on this subject—that the treaty of Utrecht never extended to the country west of the Rocky mountains.

Mr. Greenhow, in his work on Oregon, had examined this question, and had endeavored to show that no commissioners, under the treaty of Utrecht, had ever established any boundary between the French and English possessions on this continent. So far as respects the general proposition, it is a mere question of historical authenticity, not having the slightest practical bearing upon our title to Oregon. Because, before our title to Oregon could be affected, it must be shown that that line, if established at all, must have extended west of the Rocky mountains.

Mr. Greenhow, in his work, enters into the question, and I referred to his book as one entitled to talent, industry and caution; and I requested gentlemen, who had doubts on this subject, to turn to that work, and I thought they would satisfy themselves, that no such line had been established. I did not vouch for the facts or conclusions. I never examined the general subject in its extent. I stated, however, that the result of his discussion upon my mind

was, that such a line had not been run. I am still under that impression, sir, and nothing that was said yesterday has shaken its strength. Still I do not hold myself at all responsible for Mr. Greenhow's accuracy. I should investigate the subject with far more care than I have done, if I were to be held responsible for deductions resting upon any other man's assertions.

The senator from Missouri says he comes here not to settle a point, which can at all influence the action of this body, or have the slightest effect upon the termination of our controversy with England. He says he "makes no application of this fact," referring to his proof that the parallel of forty-nine was established somewhere by the treaty of Utrecht. He says, "I draw no argument from it. I do not apply it to the question of title. I am not arguing title, and will not do it; but I am vindicating history, assailed in a vital point by the book which has been quoted and endorsed. I am vindicating the intelligence of the American Senate, exposed to contempt in the eyes of Europe, by a supposed ignorance of a treaty which is one of the great political landmarks in Europe and America," &c.

The Senator will pardon me for saying that this seems to me very much of a tempest in a teapot. What does he profess to vindicate before the Senate of the United States? Not the rights of the country, but the alleged truth of an historical fact, misrepresented by Mr. Greenhow, and vouched for, as the Senator thinks, by me. Now, sir, it seems to me, that this solemn trial, before such a court as this, is hardly justified by the nature of the accusation. Here is an historical error. Be it so. Nobody contends that it affects our interests or our honor in the remotest degree; no more so than the parentage of Romulus and Remus. This is not a lecture room. We are neither professors nor students, assembled here to discuss the truth or falsehood of historical statements, which have no relation to our duties. And it seems to me, also, that Europe will know little, and care less, respecting this *grave* controversy, now *sub judice*, before this high tribunal. I doubt if its fame reaches there. I rather imagine, that, in that quarter of the globe, there are other, if not graver, subjects to engage the attention of both Governments and people, than historic doubts, involving Mr. Greenhow's accuracy and my credulity.

Still, sir, as this question is thus brought before us, I shall proceed to give a brief synopsis of it, and leave honorable Senators to judge for themselves. The Senator from Missouri has brought forward three principal facts, to prove that the parallel of 49 degrees was established by commissioners under the treaty of Utrecht. The first is a dispatch from Mr. Madison to Mr. Monroe; the second, a statement submitted by Mr. Monroe to Lord Harrowby; the third—I put them together, for the honorable gentleman has joined them—Postlethwayt's Dictionary and D'Anville's maps.

Before proceeding further, sir, I beg to remark, that the honorable Senator, in quite a taunting tone, contrasts my investigation

of this matter with his own. He goes to the fountain-head, the authentic documents, and *there* finds the truth; while I go to the turbid stream, and am thence "led astray," and thus have wandered into the enemy's camp, and have become a prisoner. And what are those *authentic* documents which the honorable Senator has sought and found, and pored over with the midnight lamp, to educe the truth? Why, Postlethwayt's Commercial Dictionary, containing a map! This is all, literally all!—a work long since referred to by Mr. Greenhow in his book, and examined by him.

Now, sir, the first reflection which strikes a man is this, that if this line were thus established, the proof of it might have been got forty years ago from the archives of Paris or London. That would be positive and undeniable evidence, and all short of it is inconclusive, and such as no tribunal of justice would receive as final.

Before any man assumes the existence of such a line as a barrier to his country's claims he ought to prove it, not by loose deductions from loose historical notices, but by an authentic copy of the act of the commissioners.

But what says Mr. Madison? The honorable Senator from Missouri says, "the fact of commissaries having acted, was assumed for certain." The language of Mr. Madison reads far otherwise to me. As I stated the other day, he speaks doubtfully upon the subject; and I repeat the assertion, notwithstanding the contrary averment of the Senator from Missouri. "There is reason to believe," said Mr. Madison to Monroe, "that the boundary between Louisiana and the British territories north of it was actually fixed by commissaries appointed under the treaty of Utrecht."

He then adds, that he sends a paper, containing the authority respecting this alleged decision; but he adds cautiously: "*But you will perceive the necessity of recurring to the proceedings of the commissaries as the source of authentic information.* These are not within our reach here, and it must be left to your own researches and judgment to determine the proper use to be made of them." If this is certainty, I should like to know what uncertainty is. The honorable Senator regrets, that I had not looked into the original documents, instead of depending on Greenhow, and thus becoming "his dupe and his victim"—not very courteous words these, by-the-by—and that if I had done so, I would not have said that Mr. Monroe had not added any thing to Mr. Madison's statement, and had left the question as doubtful as he had found it. "In point of fact," says the Senator, "Mr. Monroe added the *particulars*, of which Mr. Madison declared his ignorance—added the beginning, the course and the ending of the line, and stated the whole with the precision of a man, who had taken his information from the proceedings of the commissioners."

This is to me a strange view of the matter, sir. I cannot find that Mr. Madison refers to any *particulars*. He certainly does not use the word. It is the authenticity of the notice, enclosed

by him, which he desires Mr. Monroe to ascertain. What the *particulars* were, contained in the notice, we do not know, as the paper itself cannot be found. That notice, as I shall show, or rather Greenhow has shown, there is every reason to believe, was an extract from Douglass' History of America.

Before I proceed to examine these *particulars*, I may be allowed to remark, that Mr. Madison doubted with precisely the same facts, which we have before us—the map and book referred to by the honorable gentleman. And to this day, not one single circumstance has been added, which could remove those doubts. Where, then, that illustrious man felt uncertainty, I may be permitted to feel a greater degree of it, in consequence of the direct and circumstantial evidence since discovered, leading to the presumption that no such line was established. But I repeat, sir, that in this investigation I do not profess to come to any absolute conclusion. It is a subject on which men may differ. The result of my examination impresses me with the conviction, that no such line was established. Mr. Monroe presented a memoir to Lord Harrowby, the Secretary of State, and I will now quote from the gentleman's speech that part of it, upon which he dwells, as showing "the beginning, courses, and end of the line, &c., with the precision of a man, who had taken his information from the proceedings of the commissaries." I will quote, also, the statement of Douglass, the historian of North America; and no doubt can exist on the mind of any man, that Mr. Monroe resorted to that authority for his statement, and not to the original archives:

"Commissaries were accordingly appointed by each Power, who executed the stipulations of the treaty in establishing the boundaries proposed by it." "They fixed the northern boundary of Canada and Louisiana by a line beginning in the *Atlantic, at a cape or promontory in fifty-eight degrees, thirty minutes north latitude; thence southwestwardly to the Lake Mistissin, thence further southwest to the latitude of forty-nine north from the equator, and along that line indefinitely.*"

Douglass says, page 7: "By the treaty, however, the Canada, or French line, with the Hudson Bay Company of Great Britain, was ascertained from *a certain promontory upon the Atlantic ocean in fifty-eight degrees, thirty minutes of north latitude, to run southwest to Lake Mistissin; to be continued still southwest to the forty-ninth degree, and from thence due west indefinitely.*"

Now, sir, the honorable Senator from Missouri says that Mr. Monroe must have taken his information from the proceedings of the commissaries. No man can doubt but that Mr. Monroe quoted from Douglass' book. The language is so nearly identical as to render such a coincidence impossible, if it were accidental.

The suggestion that Mr. Monroe went to the archives to procure the *particulars*, of which "Mr. Madison had declared his ignorance," but of which declaration I cannot find a trace, seems to me very extraordinary, when we advert to Mr. Monroe's report. The proceedings in such a case as this, establishing a boundary between two great nations, extending over so large a portion of the surface of the globe, were never recorded in the language of Mr. Monroe. Who were the commissioners? Where did they

sit? What was the date of their action? Where was the confirmation of their award by their Governments? What, in fact, were the points indicated? "Beginning in the Atlantic, at a cape or promontory in fifty-eight degrees, thirty minutes north latitude!" A cape or promontory not named, but to be ascertained by its latitude! And if the latitude were not correctly stated, what then? Suppose where that parallel struck the Atlantic, there was no cape or promontory? And would any commissioners assume such an absolute knowledge of the topography of a remote and barren coast, as to make that fact the basis of their whole action! Valid, if it were so; invalid, if it were not.

But this loose language is not confined to the place of commencement. After leaving this "cape or promontory," this *terra incognita*, the line is to run *southwestwardly to Lake Mistissin*, an indefinite course, as will be seen, and not rendered definite by indicating what part of the lake it was to strike.

No reasonable doubt can exist, but that as Mr. Monroe employed the language of Douglass, he took the statement from that historian.

Mr. Monroe, however, presented the fact to Lord Harrowby, and it was not contradicted by him, so far as we know.

From this negative circumstance the gentleman from Missouri draws the important conclusion, that the fact must have been so. I shall not enter into this matter, as it is not at all important.

Mr. Monroe stated a fact that had occurred, if it occurred at all, a century before. It had in reality little, if any, bearing upon the subject he was urging, which was the right of the United States to "possess the territory lying between the lakes and the Mississippi, south of the parallel of the forty-ninth degree of latitude."

It was to the treaty of 1783, that he was referring, and to Mitchell's map, by which it was formed. He adverts to the treaty of Utrecht by saying that "by running due west from the northwestern point of the Lake of the Woods to the Mississippi, according to the treaty of 1783, it must have been intended, according to the lights before them, to take the parallel of the forty-ninth degree of latitude, as established under the treaty of Utrecht."

Now, sir, it might well be that Lord Harrowby never considered it necessary to look into this alleged fact, as it had no real bearing on the subject, being alluded to merely as giving reasons, which may have influenced the commissioners in fixing the boundaries of 1783.

Most certainly his silence, under such circumstances, furnishes no solid proof—scarcely, I may say, a light presumption—in favor of this parallel of forty-nine degrees.

The next proof of the establishment of this line given by the Senator, was Postlethwayt's Commercial Dictionary, with D'Anville's map. There is no quotation from the dictionary, and the matter, therefore, rests on the map alone.

The Senator then pointed out the line established under the treaty of Utrecht, and read the account of it as given in a note on the upper left-hand corner of the map. The description was in these words:

"*The line that parts French Canada from British Canada was settled by commissaries after the peace of Utrecht, making a course from Davis's Inlet, on the Atlantic sea, down to the forty-ninth degree, through the Lake Abitibis, to the Northern Ocean; therefore Mr. D'Anville's dotted line east of James's Bay, is false.*"

The Senator then states that this map was "made by D'Anville, the great French geographer of his age, and dedicated to the Duke of Orleans," &c., &c.; and he adds, it is the "authentic French testimony in favor of the line of Utrecht."

Now, sir, it is not a little curious, that this map, thus authoritatively pronounced to be authentic, is upon the very face of it stated to be false in one important particular. What, then, becomes of the correctness of the assertion of the honorable Senator, and of the certainty of this testimony?

If wrong in one respect, it may be so in others, and at any rate our faith in its pretensions is entirely shaken. But I do not understand by whom this note was written: evidently not by D'Anville, for it impugns his own work. We have not, therefore, D'Anville's authority for this line, as being established under the treaty of Utrecht. He marks the line upon his map, but whence his authority for it is left to conjecture.*

One other point, sir. The honorable Senator states, that in an attempted negotiation with the British Government, during Mr. Jefferson's administration, two articles were proposed—one by the American commissioners, and one by the British—for the establishment of a boundary between our country and Canada, from the northwestern point of the Lake of the Woods. The articles

* Such were the results suggested to me at the moment, naturally arising from the circumstances. Taking the map to be D'Anville's, as I understood the honorable Senator from Missouri to state, I could not comprehend by whom it was discredited; as surely the French geographer would not have impugned his own work. From the existence of an acknowledged error, I deduced the conclusion that the map was not entitled to be considered "as the authentic French testimony in favor of the treaty of Utrecht."

What, however, I did not understand then, I understand now. In conversation with Col. Benton since, he has informed me that this map is not the original work of D'Anville, but an English edition of it, by Bolton, with alterations.

This fact, of course, destroys the entire value of the map as authentic testimony. Bolton, in the above note, does not state that the parallel of forty-nine degrees as a boundary was marked upon D'Anville's map. This English edition was published in London in 1752, as *greatly improved by John Bolton.* Mr. Greenhow, who has examined D'Anville's original work, states, in an article published in the Union, April 3, 1846, that neither the *parallel of forty-nine degrees as a boundary* between Canada and the Hudson's Bay territories, *nor any other line passing through the same portion of the continent, is to be found on the real map of D'Anville.*

He states that the French geographer upon his map carried the boundary of the French and British possessions to the dividing land between the waters of the ocean and those of the lakes and of the Mississippi; giving to France the whole country west of the mountains, including that situated upon the Alabama and its tributaries. He says Bolton *improved* upon this boundary, by carrying the British line to the forty-ninth parallel; and if so, then what becomes of this "authentic French testimony, in favor of the line of Utrecht—that line upon which the Senator from Michigan has staked the reversal of his Oregon position?"

are substantially the same, but with the difference which an examination of them will show.

The American *projet* provided:

"That a line drawn due north or south (as the case may require) from the northwestern point of the Lake of the Woods, until it shall intersect the forty-ninth parallel of north latitude, and with the said parallel shall be the southern boundary of his Majesty's territories, and the northern boundary of the said territories of the United States."

The British *projet*, after providing for the running of a line north or south, as might be, from the northwestern point of the Lake of the Woods to the parallel of forty-nine degrees, provides that the "said parallel shall be the dividing line between his Majesty's territories and those of the United States to the westward of the said lake, as far as their respective territories extend in that quarter; and that the said line shall to that extent form the southern boundary of his Majesty's said territories, and the northern boundary of the said territories of the United States."

Each of these *projets* contains the same proviso, "That nothing in the present article shall be construed to extend to the northwest coast of America, or to the territories belonging to, or claimed by, either party, on the continent of America west of the Stoney Mountains."

The Senator exclaimed triumphantly, "Here is concurrence in the proceedings of commissaries under the treaty of Utrecht." "Here is submission to that treaty on the part of the British," &c.

In the first place, sir, allow me to remark that this was a mere *projet*, and that no treaty was made on the subject till eleven years afterwards, in 1818. Now, what is meant by "concurrence" here? If accidental coincidence, the matter is not worthy of further inquiry. But if by "concurrence" is meant that this line was actually established by the treaty of Utrecht, and thus binding on the parties, no other convention was necessary. Both nations, upon this assumption, mistook their own rights and their duties. The boundary had been established a century before, and they were carrying on a useless and barren negotiation, which was thus blindly and unnecessarily ripened into a treaty in 1718. But, sir, the Senator proceeds to ask what Mr. Jefferson did with this *projet*, and adds, that he rejected it. And why, sir? The letter from Mr. Madison to Messrs. Monroe and Pinkney, dated July 30th, 1807, states:

"The modification of the fifth article (noted as one which the British commissioners would have agreed to) may be admitted in case that proposed by you to them be not attainable. But it is much to be wished and pressed, though not made an ultimatum, that the *proviso* to both should be omitted. This is, in no view whatever, necessary, and can have little other effect than as an offensive intimation to Spain that our claims extend to the Pacific ocean. However reasonable such claims may be, compared with

those of others, it is impolitic, especially at the present moment, to strengthen Spanish jealousies of the United States, which it is probably an object with Great Britain to excite by the clause in question."

Now, sir, Mr. Jefferson's object was not to offend Spain, and therefore he rejects a proviso, which expressly limits our claim to the Rocky Mountains, in order not to excite the jealousy of a most jealous nation, by even the appearance of interfering with her rights; and yet the honorable Senator supposes that this very treaty, without the proviso, was to run to the Pacific, claiming for us and England the whole country. And which would excite the jealousy of Spain most? To say expressly the American Government will make no arrangement with that of England for pushing the American title west of the Rocky Mountains, or to form a treaty actually carrying this claim there without regard to Spanish rights? It is obvious to me, that Mr. Jefferson did not believe in the English title west of the Rocky Mountains as far as the Pacific; and, therefore, making a treaty with that Power for the establishment of a boundary between her and the United States would not justly give offence to Spain, as it would not call in question Spanish rights.

The honorable gentleman has not said one word of Mr. Jefferson, in which I do not heartily concur. An abler or a purer statesman is rarely to be found in history. Time, which tries the fame of all men, and reduces the fame of most men, is rendering his brighter and brighter; and we have scarcely a name in history—certainly but one—which is more revered by the American people, as that of a pure patriot and a consummate statesman. The honorable Senator will please to recollect, that this *projet* of Mr. Jefferson, under any circumstances, proves nothing, because—

1. It was never carried into effect;

2. It was before the Florida treaty, by which we acquired the Spanish title;

3. It was formed under the impression, now shown to be an erroneous one, that the parallel of forty-nine degrees had been established, under the treaty of Utrecht, as the northern boundary of Louisiana, extending to the Rocky Mountains.

But after all, our rights remain as they were; and the opinions of such able and honest men as Mr. Jefferson, Mr. Madison, and Mr. Monroe, whatever those opinions may have been, though entitled to very grave consideration, still leave the Government perfectly free and unembarrassed by a *projet* proposed by them, but finally abandoned. Though, upon the assumption that the northern boundary of Louisiana was fixed by commissaries under the parallel of forty-nine degrees, I cannot understand why the parties negotiated at all; and though I see no evidence, that the line proposed was intended as the recognition of an English title west of the Rocky Mountains, to the exclusion of Spain, but the contrary; yet I have such an abiding confidence in each of those

statesmen, that I am fully satisfied the apparent facts within their reach justified their course, whatever that was intended to be.

But, sir, what are the circumstances which render doubtful—I might say discredit—the establishment of this parallel of forty-nine degrees under the treaty of Utrecht? I will refer here to a portion of an article published in the Union, February 24, 1846, and written by Mr. Greenhow:

"On the other hand, Mitchell's large map of America, published in 1755, under the patronage of the Colonial Department of Great Britain, which was consulted and adopted as authority by the British and American Plenipotentiaries in regulating the limits of the United States, in the treaty of 1783, presents a line drawn along the highlands separating the waters flowing into Hudson's Bay from those of the St. Lawrence and the lakes, as the 'boundary of Hudson's Bay by the treaty of Utrecht;' and the same line appears on the map of America, in Smollett's History of England, published in 1760; on that of Bennett, in 1770; on that of Faden in 1777; and on some other maps of that time.

"In contradiction of all these opinions, no line of separation whatsoever between the Hudson's Bay territories and the French possessions, is to be found on the large and beautiful map of America, by Popple, published in 1738, (also under the patronage of the Colonial Department,) and bearing the certificate of Dr. Halley to its correctness; nor on any map in the Atlas of Maxwell and Senex, published in 1621; in Boyer's Political State, 1721; in the History of Hudson's Bay by Dobbs, the Governor of that territory, 1744; in the Histoire de la Nouvelle France, by Charlevoix, 1744; in the System of Geography, by Bowen, 1747; in the American Traveller, 1769; in the American Atlas, by Jeffries, 1778; in the History of the French Dominions in America, by Jeffries, 1760; nor in the map of America, from the materials by Governor Pownal, in 1794; nor is there any allusion to such a line in the works to which these maps are attached, or in any other work or map of reputation published during the last century, save those above mentioned.

"None of the works above mentioned are authorities on the subject, proceeding, as they all do, from persons unconnected with the transactions of the Utrecht treaty, and possessing no better means, so far as known, of information respecting them than other people; they, indeed, only show that the boundary was supposed by some persons to have been so settled at the time when they were written.

"Of the works, which may be considered as authorities, the following, comprising, it is believed, all in which a record or notice of such a transaction, if it had taken place, should be found, are entirely silent with regard to any decision or other act of commissaries appointed under the treaty of Utrecht, to settle the line of separation between the Hudson Bay territories and the French possessions, viz: the Collections of Treaties by Dumont, Boyer,

Martens, Jenkinson, Herstlet, and others; Actes, Mémoires, &c., concernant la Paix d'Utrecht, 1716, and Actes, Négociations, &c., depuis la Paix d'Utrecht, 1745, two voluminous works, containing, it may be supposed, every public document, and notice of every act connected with the negotiation of the treaty of Utrecht, and the consequent proceedings; Collection des Edits, Ordonnances, &c., concernant le Canada, Quebec, 1803, apparently a complete assemblage of all the most important public documents relative to Canada and the fur trade; Mémoires des Commissaires Français et Anglais, sur les Possessions des deux Couronnes en Amèrique, 1754 to 1757, which could not have thus omitted to notice this settlement of boundaries, if it had taken place; the Histoire de la Diplomatie Française, by Flassan, 1811, and the Histoire des Traités de Paix, by Koch and Schoell, 1817. To these authorities may be added, as equally silent on the subject, the Histories of England by Tindall, Smollett, Belsham, Hughes, Mahon, Wade, the Parliamentary History, and the Pictorial History; the Histories of France, by Sismondi, Anquetil, and Lacretelle; Lord John Russell's Affairs of Europe since the Peace of Utrecht; the Histories of, and Memoirs on, Louisiana, by Dumont, Dupraix, Vergennes, and Marbois; the political works of Swift, Bolingbroke, and Voltaire; and many other works relating to the history of the period at which this settlement of the northern limit of Louisiana is said to have been made.

"This is all negative evidence, indeed; but it is the only evidence of which the case admits, and is equivalent to a positive contradiction of the supposition that any settlement of boundaries between the Hudson Bay territory and the French possessions was made under the treaty of Utrecht; as such a transaction could not have escaped notice in all, or indeed in any, of the works mentioned in the preceding paragraph, if it had taken place, and especially if it had been so notorious as the knowledge of it by those who asserted it would seem to indicate. It will be said that there must have been some foundation for the assertion; and possibly such a line may have been proposed, and made the subject of discussion between the two Governments in 1718, as a part of it was, a hundred years after, between one of them and the United States. That commissaries were appointed to settle boundaries, under the treaty of Utrecht, is most probable; and, in proof not only of their meeting, but also of their separation without effecting any of the objects proposed, the following passage appears in the Histoire de la Nouvelle France, by Charlevoix: 'France took no part in this dispute, (between the British and Indians in Nova Scotia, in 1722,) in order to avoid giving the slightest pretext for interrupting the good understanding between the two nations, which had been restored with so much difficulty; even the negotiations between the two Courts for the settlement of boundaries ceased, although commissaries had been appointed on both sides, for that object, since 1719. Anderson, in his History of Commerce, and Macpherson,

in his Annals of Commerce, both positively deny that any boundaries were settled under the treaty of Utrecht."

In addition to the facts above stated, I will add another short paragraph, which was handed to me by my friend [Mr. HANNEGAN] since I came here to-day. I have not had time to advert to the original, but I presume it is correct.

"In De Mofras's book, the official exposition by the French Government of the grounds of the English claims to the Oregon territory, and its own former pretensions to that region, it is said, vol. ii. p. 158:

"'It was agreed, at the peace of 1713, and by the treaty of Utrecht, that commissioners should meet to trace with precision, to the north and the west, the limits between the Hudson Bay country and New France, and to the south, the boundaries between that province and the English possessions. Nevertheless, there does not exist in any written record, nor in any maps or charts, a single document showing that these frontiers ever were definitely established. And, in 1722, all proceedings on this subject had been abandoned, according to Father Charlevoix, that not the least pretext might be given to violate the good understanding, which it had been found so difficult to establish between the two crowns of France and England. The archives of the office of Foreign Affairs contain no chart or memoir relating to the treaty of Utrecht, regarding these frontiers, nor do those of the Department of Marine; and thus the assertion of Charlevoix is fully sustained.'

"The reference is to Charlevoix's New France, vol. iv. p. 124, and the top of the page."*

Now, sir, I shall pursue this investigation no further. I have already observed that, whether this line was established or not east of the Rocky Mountains, is not of the slightest importance. The position that I occupied in my speech, and that I occupy now, is this: It is contended in the Senate, and out of it, that the parallel of forty-nine is our northern boundary in the territory of Oregon, and that it was assumed as such by our Government in the early part of the controversy, and so maintained for some years; and that we are, therefore, concluded against the assertion of any other boundary. Now, sir, my object was to show, that no such line was ever established by the treaty of Utrecht in the Oregon country, and that we were, therefore, free to urge our pretensions, without regard to this statement, or to the acts of our Government, founded upon an erroneous impression, that the line of forty-nine

* The following is the remark of Father Charlevoix, referred to above:

"France took no part in this quarrel," (speaking of some disputes between the English and the Indians,) "so as not to give the least pretext to break the good understanding, which it had cost so much to establish, between the two Crowns. The negotiations between the two courts for the establishment of boundaries ceased; although commissioners had been appointed on both sides ever since the year 1719."

This was written in 1743. The author was the well known traveller sent out by the French Government to explore and describe their possessions in North America; a task which he executed with equal judgment and accuracy. Great weight is due to his authority.

degrees did extend to the Pacific ocean. This is what I undertook to disprove, and nothing but this. And I will now ask the honorable Senator from Missouri if he believes that the parallel of forty-nine was ever established by commissaries under the treaty of Utrecht, as a boundary west of the Rocky Mountains? I will wait for the honorable gentleman's reply.

[Here Mr. CASS paused for a short time; but Mr. BENTON not answering, he continued.]

Well, the honorable gentleman does not answer me. If he believed the line run there, I am sure he would say so; for, if it did not run there, we are forever foreclosed from any claim under the Louisiana treaty, and the force of the honorable gentleman's attack upon me would be greatly strengthened. As he does not answer, I shall take it for granted that he believes no such line was ever established there. And if the fact is so, my object is answered, and we are relieved from the embarrassments arising out of the repeated assertions that the line of 49 degrees is our northern boundary in the territory of Oregon. I will now read to the honorable Senator what I said the other day on this subject, and he will perceive how much he has misapprehended me, and that all my allusion to the parallel of 49 degrees east of the Rocky mountains was a mere incidental topic, having no bearing upon my actual position. What I did say is this: "The treaty of Utrecht never refers to the parallel of 49 degrees, and the boundaries it proposed to establish were those between the French and English colonies, including the Hudson Bay Company in Canada. The charter of the Hudson Bay Company granted to the proprietors all the "lands, countries, and territories," upon the waters discharging themselves into Hudson's Bay.

"At the date of the treaty of Utrecht, which was in 1713, Great Britain claimed nothing west of those "lands, countries, and territories," and of course there was nothing to divide between France and England west of that line. Again, in 1713, the northwestern coast was almost a *terra incognita*, a blank upon the map of the world. England then neither knew a foot of it, nor claimed a foot of it. By adverting to the letter of Messrs. Gallatin and Rush, communicating an account of their interview with Messrs. Goulburn and Robinson, British commissioners, dated October 20th, 1818, and to the letter of Mr. Pakenham to Mr. Buchanan, dated September 12th, 1844, it will be seen, that the commencement of the British claim is effectively limited to the discoveries of Captain Cook, in 1778. How then could a boundary have been established fifty years before, in a region where no Englishman had ever penetrated, and to which England had never asserted a pretension? And yet the assumption that the parallel of 49 degrees was established by the treaty of Utrecht as a line between France and England, in those unknown regions, necessarily involves these inconsistent conclusions. But besides, if England, as a party to the treaty of Utrecht, established this line, running

to the Western ocean, as the northern boundary of Louisiana, what possible claim has she now south of that line? The very fact of her existing pretensions, however unfounded these may be shows that she considers herself no party to such a line of division. It shows, in fact, that no line was run; for if it had been, the evidence of it would be in the English archives, and, in truth, would be known to the world without contradiction." This is what I said; and this was followed by the synopsis of my views upon the subject, which I read, and which I will read again:

1. It is not shown that any line was established on the parallel of 49 degrees to the Pacific ocean.

2. The country on the northwestern coast was then unknown, and I believe unclaimed; or, at any rate, no circumstances had arisen to call in question any claim to it.

3. The British negotiators in 1818, and their Minister here in 1844, fixed upon the voyage of Captain Cook, in 1778, as the commencement of the British title in what is now called Oregon.

4. The treaty of Utrecht provides for the establishment of a line between the French and British colonies, including the Hudson Bay Company. The British held nothing west of the company's possessions, which, by the charter, included only the "lands, countries, and territories," on the waters running into Hudson's Bay.

5. If England established this line to the Pacific ocean, she can have no claim south of it; and this kind of argument, *ad hominem*, becomes conclusive. And let me add, that I owe this argument to my friend from Missouri, [Mr. ATCHISON,] to whose remarks upon Oregon the Senate listened with pleasure and with profit some days since.

6. How could France and England claim the country to the Pacific, so as to divide it between them in 1713, when, as late as 1790, the British Government, by the Nootka convention, expressly recognized the Spanish title to that country, and claimed only the use of it for its own subjects, in common with those of Spain.

I am now, sir, brought to the annunciation, which I made, and which the honorable Senator has so strangely misunderstood. What I said, was this—I will repeat it in the very words I used upon the former occasion: "I now ask, sir, what right has any American statesman, or what right has any British statesman, to contend that our claim, whatever it may be, is not just as good north of this line as it is south of it? When this question is answered to my satisfaction, I, for one, will consent to stop there. But until then, I am among those who mean to march, if we can, to the Russian boundary."

This, sir, is my position. How different it is from the position assigned to me by the honorable Senator, I need not say. I trust I have redeemed myself, and that I can again enter into the contest, a free man, battling for the full rights of his country, even to 54 degrees 40 minutes.

The discussion of this question was continued through sixty-five

days of the session. On the 16th of April, Mr. Allen moved that the resolution under debate, with the amendments, be laid on the table, with the view of taking up for consideration the preamble and resolution relating to the same subject, which had passed the House of Representatives and been sent to the Senate for concurrence. The motion was agreed to, and the Senate proceeded to consider the House resolution. It was amended in the Senate, by prefixing to it a preamble, and by changing it from a peremptory and explicit authority to the President to terminate the convention, to a discretionary one. The House of Representatives did not concur in the amendments, nor subsequently, upon the report of committees of conferences of both Houses, was an agreement effected.

In May, following, the subject of extending the jurisdiction over the territory west of the Rocky Mountains, being under consideration in the Senate, Mr. Benton again opened the question of the title of the United States to the Oregon territory. In the course of his speech, he attempted to controvert the statements of Gen. Cass, formerly made in regard to the boundary line running along the parallel of 54 degrees and 40 minutes.

In reply Gen. Cass addressed the Senate, examining and discussing the objections raised by his powerful antagonist, sustaining, by his masterly argument and irrefragable proofs, the correctness of his own statements and clearly pointing out the errors of his opponent.

Gen. Cass, foreseeing the approach of a crisis in the vexed questions between the United States and England, which might involve the two countries in a war, and impressed with the necessity of being prepared to meet any contingency that might happen, introduced at an early period in the session, prior to the discussion of the Oregon question, resolutions, instructing the committee of the Senate on military affairs to inquire into the condition of the national fortifications and of their armaments, and whether other defencive works were necessary; and into the condition and quantity of the military supplies; and into the state of the means possessed by the government for the defence of the country; and also instructing the committee on the militia to inquire into the present condition of that great branch of the public service, and into the state of the militia laws; and that they be further instructed to report such

changes in the existing system as will give more experience and efficiency to that arm of defence, and will place it in the best condition for protecting the country should it be exposed to foreign invasion; and that the committee on naval affairs inquire into the condition of the navy of the United States, and into the quantity and condition of the naval supplies on hand, and whether an increase of them was not necessary to the efficient operations of the navy, and to its preservation and augmentation; and, generally, into its capacity for defending our coast and our commerce, and for any service the exigencies of the country might probably require.

Gen. Cass advocated the adoption of these resolutions at length. He said:

It was impossible to peruse the President's message, and to observe the indications of public sentiment which are crowding upon us from every quarter, without being aware that a crisis is fast approaching in the intercourse between this country and Great Britain, which demands the serious consideration, and may require the cordial and active co-operation, of the whole American people. The President has told us that the negotiations respecting Oregon, if they have not reached a close, have, at any rate, reached a position almost equivalent to it. The claims of the respective nations are utterly irreconcileable; and a compromise, by a voluntary sacrifice of a portion of their pretensions by one party, or by both, or a submission of the whole matter in controversy to some foreign power, seem the only alternative by which peace can be preserved.

Our government has already declined to submit our rights to foreign arbitration. That is a process which, under equal circumstances, may well be adopted by independent nations to terminate disputes, which would otherwise seek the arbitrament of war. It preserves the honor of both parties, and ought to preserve the just interests of both. It substitutes reason for force, and is therefore suited to the advancing opinions of the age, and to the duties and feelings of Christian communities. But these equal circumstances do not exist in our present dispute with England. There are obvious considerations, into which I need not enter here, growing out of the relative situation of that country and of ours, with those powers of Europe from whom an arbitrator would almost necessarily be selected, and out of the influence she possesses over their counsels, and, I may add, growing out of the nature of our institutions, and the little favor these enjoy at present upon the Eastern continent, which may well have made the government hesitate to submit important interests, at this particular juncture, to such a tribunal. It may well have thought it better to hold on to our right, and to hold on also to our remedy, rather than commit both to a royal arbitrator. War is a great calamity, and ought to be

avoided by all proper means; but there are calamities greater than war, and among these is national dishonor.

I did not rise, sir, as will be seen, to discuss in whole or in part the question of our right to Oregon. That subject will come up in its own proper time. There may be some difference of opinion as well in Congress as in the nation, respecting the territorial extent of that right; though I take this opportunity of expressing my entire and hearty concurrence in the claim as advanced by the President. But I am sure there is no great party, and I trust there are few individuals in this country, who are prepared, even in an extreme spirit of compromise, to accept the most liberal offer that England has yet made. Her pretensions and ours are so widely separated, that there seems no middle ground on which to meet. Our most moderate claim, and her most liberal offer, leave the parties assunder by seven degrees of latitude, and by a large portion of the territory in question. What, then, is our condition? Can we recede? Can we stand still; or must we advance?

As to receding, it is neither to be discussed nor thought of. I refer to it but to denounce it—a denunciation which will find a response in every American bosom. Nothing is ever gained by national pusillanimity. And the country which seeks to purchase temporary security by yielding to unjust pretensions, buys present ease at the expense of permanent honor and safety. It sows the wind to reap the whirlwind.' I have said elsewhere, what I will repeat here, that it is better to fight for the first inch of national territory than for the last. It is better to defend the door sill than the hearth stone—the porch than the altar. National character is a richer treasure than gold or silver, and exercises a moral influence, in the hour of danger, which, if not power itself, is its surest ally. Thus far, ours is untarnished; and let us all join, however separated by party or by space, so to preserve it.

If we cannot recede, can we stand still? No, Mr. President; in this, as in all the other elements of national power and greatness, our duty and our destiny are onwards. We might as well attempt to stay the waves of the Pacific, as to stay the tide of emigration which is setting towards its shores. If this government had the disposition, it has not the power to arrest this human current. But it has neither—neither the power nor the disposition to do it. There are questions of public right, which may rest in abeyance; which are not called into daily exercise; and need be asserted only when required. But such is not the right by which we hold Oregon. We must maintain it, or abandon it. A vigorous and enterprising people are fast increasing there, who will hold the country by the best of all titles—that of occupation and improvement; and if we do not provide them a government, they will provide one for themselves. Already necessity has compelled them to organize their civil society, and to make those arrangements for the preservation of order, without which no civilized community can exist. It is only a few days since they made known to you,

by a judicious and well-written memorial, their condition and their wants; and asked your interposition to remove the serious difficulties with which they find themselves environed. And think you, that if their prayer is unheard, and their grievances unredressed, and if the present state of things continue, that you will find a distant colony patiently awaiting your tardy movements, and ready to admit your jurisdiction when you may be ready to exercise it? No; they will feel themselves neglected, cast off, left to their own resources, the victims of diplomatic chicanery or of national pusillanimity, and they will seek their own security in their own power. That great truth, not applicable alone to republican governments, but common to all, and which lay at the foundation of our Revolution—that protection and allegiance are reciprocal—will soon be heard upon the banks of the Columbia, and will inspire the councils of the hardy pioneers, who, while they have sought a new home in a distant country, have carried with them the sentiments of true liberty to the regions beyond the Rocky mountains.

It is clearly impossible that the present state of things should continue; nor, I must confess, do I see how it is possible that a community, inhabiting the same region, and possessing the same right to every part of it, can hold a divided allegiance, and be governed at the same time by two distinct and distant sovereignties. When the present anomalous provision was made, the country was unsettled; for the few hunters who roamed over it could hardly be dignified with the name of settlers: and it probably never occurred to the negotiators, nor to their governments, that this arrangement would outlive the then existing state of things, and would come to operate upon a civilized, a stationary, and a rapidly increasing community.

Bnt what kind of order can a double-headed government preserve? How are its departments—legislative, executive, and judicial—to be administered? How are rights to be enforced, or wrongs to be prevented or punished? Two neighbors, living within hearing of each other, are responsible to different tribunals, and governed by different codes of laws. An American killing an Englishman must be tried by an American court and by American laws. But how are English witnesses to be summoned, or English disturbers of the proceedings of the court to be removed or punished? Possessory rights are to be judged by the courts of the party last getting possession. Contracts are to be enforced by the courts of the party charged with violating them. And wrongs are to be redressed, or satisfied, or punished by the courts of the party accused of committing them. A single American in the midst of an English settlement, or a single Englishman in the midst of an American settlement, bears with him a charmed life. He may do what he will, and as he will, but he is beyond the reach of restraint, and almost of punishment. He is invulnerable, and the arrows of justice cannot pierce even his heel. The nearest magistrate who has jurisdiction over him may be hundreds of miles removed; and

were he nearer, his national sympathies might naturally be excited in favor of his countryman. There can be no regular grants of land—none, in fact, of those public improvements essential to the progress and stability of society. I present merely the most general views of this subject, but they are sufficient to show how impracticable it would be to attempt to establish this double jurisdiction. It would be easy to pursue the investigation much further were it necessary.

Who does not see that bitter disputes would soon arise? That each party would accuse the other of partiality and injustice? That violence and bloodshed would follow, and that an intestine war would establish the ascendency of one or other of the rival and national parties? All this is so plain that he who runs may read. And we are warned by the surest instincts of our nature not to trust our rights and our cause and the cause of humanity to such a partition of authority.

If, then, Mr. President, we can neither retrace our steps nor check them, we must go onward. And England has placed herself in the path that is before us; and if she retain her position, we must meet her. If the last proposition she has submitted is her ultimatum, it is effectively a declaration of war. Its advent may be delayed a few months; but as soon as the notice expires, if she persists, as she will do, in her occupation of the country, the struggle must commence. It is not the notice which is a belligerent measure, for that is a treaty right; but it is the subsequent and immediate course the parties will probably pursue that must lead to war. I hope—or I ought rather to say I wish—that England would awake to a sense of her injustice, and would yield where she could yield honorably, and ought to yield rightfully. But will she do so? It is safest to believe she will not, and this dictate of prudence is fortified by every page of her history. When did she voluntarily surrender a territory she had once acquired, or abandon a pretension she had once advanced? If a few such cases could be found in the record of her progress and acquisitions, they would be but exceptions, which would render the general principle of her conduct only the more obvious. For my own part, I see no symptoms of relaxation in the claims she has put forth. And the declarations in Parliament of the leaders of the two great parties that divide her Government and her people—Sir Robert Peel and Lord John Russell—show a union of opinion, and foreshow a union of action, should action be necessary, rarely to be found in the political questions that agitate her councils, and are the index, if not the assurance, of an equal unanimity in public sentiment.

Sir, we find the leader of the great Whig party, in his place in Parliament, in effect denouncing the course of the United States in the annexation of Texas, because it tends towards territorial aggrandizement; and the eternal cant about British moderation and philanthropy, and American injustice and ambition, is heard, and

read, and believed in every corner of the British dominions. I must confess, sir, I am heartily tired of it. Were the subject and its consequences not so important, these declarations would excite ridiclue, as they now excite regret and surprise. They are not confined to ordinary political discussions and to the journals of the day, but they come from the highest men, in the highest places. And here is an eminent English statesmen asking the Administration what course they intend to pursue in the altered policy of the United States, as he terms it—as though the voluntary union of two independent people upon this continent were an injury to England, which demanded her immediate attention, and might demand her armed interposition. And he tells us, he understands that communications have been sent to the United States, to Mexico, and to Texas, on the subject of what he calls the new policy of the United States. And we know that those communications to Mexico and to Texas contained large offers to prevent annexation. But, thanks to the onward course of our Government, and to the feelings and determination of the Texian people, this interposition was fruitless; as was the communication to Mexico, if this were designed to embroil us with that country. The well-timed rebuke, administered by the President in his Message, to the French Government for its interposition in our affairs with Texas, might, with equal justice, have been administered to England; and I presume would have been so, had not the President looked upon the course of the one Power as natural, judging from past events, while the course of the other was unnatural, impolite, and unexpected.

But this Whig lecture of Lord John Russell upon the ambition of the United States, and these perpetual eulogiums upon the moderation of England, are in strange contrast with the practical principles and the progress of her empire. The moderation of England, and the ambition of the United States! Why, sir, the world has never seen, since the fall of the Roman empire, such a colossal power as England has built up. She has girded the earth with her fortifications, and covered the ocean with her fleets. A comparatively narrow island, off the western coast of Europe, she numbers as her subjects 153,000,000 of people—being more than one-sixth part of the human race; and has reduced to her subjection 3,800,000 square miles inhabited by them, being one-eighth part of the habitable globe. And in the long series of her acquisitions, from the reduction of Ireland downwards, with the exception of her union with Scotland and some recent discoveries in the South Sea, I believe all have been gained by the sword. And when has it happened in her history, that a people, or the smallest fragment of a people, has voluntarily sought peace or protection under her sovereignty? Her armies and fleets have too often been sent out wherever there was a people to be subdued, or the fruits of their industry to be secured. I have no pleasure in dwelling upon this course of ambition. I have no pleasure in national crimination and recrimination. I had far rather dwell upon all she has done;

and she has done much—to command the gratitude of mankind, and much for the progress of civilization, of improvement, and of knowledge. But we cannot shut our eyes to the fact that this country and its institutions enjoy little favor in England. That there is a systematic attack upon our character, and upon what we are, and have been, and upon our future, so far as it is given to foresee and to fear it. I confess all this has produced a lasting impression upon me; and I feel little disposed, in any controversy with that country, to submit to unjust demands, urged in a spirit of unfriendliness, if not of menace.

And if England is moderate, we are ambitious! Why, sir, we have made but three acquisitions of territory since we have been a nation. And these were not distant colonies, but coterminious regions. And all three have been made peacefully, bloodlessly. Two were colonies belonging to European monarchies, where the assent of the people to the transfer of their allegiance could not be asked. But they have since shown their satisfaction by their patriotism, and their prosperity has been the reward of it. Nowhere is the Union more prized, nor would it anywhere be more zealously defended. The third and last, and most glorious of these acquisitions, is now in the progress of completion, by the voluntary action of a neighboring people, who knew the value of our institutions, and sought to participate in them, and who asked admission to our confederacy. And we shall receive them with open arms. And it is an encouraging spectacle to the lovers of freedom through the world, and the best tribute that could be offered to its value.

I said, Mr. President, that this was the latest, but I hope it will not be the last of our acquisitions. While I would sacredly respect the just rights of other nations, I would cheerfully extend the jurisdiction of our own, whenever circumstances may require it, and wherever it can be done without injustice. I have no fear that an extension of territory will weaken our Government, or put in peril our institutions. We have an adhesive and a life-preserving principle, in the exercise of political power by the great body of the people, which is a surer bond of union and preservation than fleets and armies and central powers. If this Administration could crown its labor of acquisition—and in what it has labored with not less ability than success—by the peaceful annexation of California, it would secure imperishable honor for itself, and would command the lasting gratitude of the whole country.

Under these imposing circumstances, we may well ask of the watchman, what of the night? We may well inquire, what we ought to do. I take it for granted we shall give the notice recommended by the President; for if we do not, we shall leave the people of Oregon without a government, or with an impracticable one; and, in either event, the country is lost to us; and the notice being given, in twelve months, without an abandonment of a large portion of her claim, we shall find ourselves involved in a war with England. And it will be no common war, Mr. President; it will

be a war not merely of interest, but of strong and stormy passions, growing out of the relative situation of the two nations, and out of the very points of resemblance, which will but render the separation of the parties the wider, and the struggle the longer and the bitterer. It will do no good to shut our eyes to the prospect before us. Danger can neither be averted nor avoided by indifference, nor by presumption. Let us look our difficulties and our duties fully in the face. Let us make preparation adequate to the conjuncture. Let us exhibit to England and to Europe the spectacle of an undivided people, anxious for peace, but ready for war. In the language of Mr. Madison, "let us put the United States into an armor, and an attitude demanded by the crisis, and corresponding with the national spirit and expectation."

One war has already found us unprepared. And what that condition of things cost in blood, and treasure, and disaster, those of us who went through the struggle can well remember; and those who have come upon the stage of action since that period, may learn from the history of the times. And, perhaps to a certain extent, this must be so, and always will be so. We are all opposed to great military establishments in time of peace. They are as dangerous as they are expensive. And they will therefore never be engrafted into the permanent institutions of the country. But when war threatens, we should commence our preparations, and press them with an energy and a promptitude commensurate with the danger.

The President has discharged his duty ably, patriotically, fearlessly. Let us now discharge ours—not by words merely, but by deeds. The best support we can give him is to respond to his declarations by our actions. It is my firm conviction, and I do not hesitate thus publicly to avow it, that the best, if not the only hope that we have of avoiding a war with England, is by exhibiting a public and united determination to prosecute it, should it come, with all the energies that God has given us, and by an instant and serious consideration of the preparations necessary for such offensive and defensive measures as may be required, and as prompt an adoption of them as a just regard to circumstances may demand. Our country is extensive. In many portions of it the population is sparse. The frontier, both Atlantic and inland, is long and exposed.

Our defensive works are unfinished, and some of them are unfurnished. I do not know, but I fear that many important branches of supply are inadequate. Our navy, and especially the steam portion of it, is not upon a scale commensurate with our wants, if war is almost upon us. That navy fought itself into favor, and its country into honor, in the seemingly unequal and almost desperate struggle into which it so gallantly went in the last war. And another contest would find it equally true to its duty, and to the public expectations. I trust the time will never again come, when it will be a question in a great crisis, whether the navy shall be dis-

mantled and rot in our docks, or whether it shall be sent out to gather another harvest of glory upon the ocean. It is the *materiel* for military and naval operations it is first necessary to procure. Men we have ready; and such is the patriotism inherent in the American character, that they never will be found wanting in the hour of difficulty and of danger. Our militia requires a new and an efficient organization. It is a reproach to us that we have suffered this important branch of national defence to become so inefficient. It has almost disappeared from the public view. Both the laws upon this subject and the administratian of them, require immediate and severe examination; for this is one of the great bulwarks of the country in the hour of danger. It has shown its patriotism and valor upon many a bloody field, and the future, if it should need its services, will witness its devotion to the country, whenever and wherever and however it may be tried. Many of the supplies required for the operations of war, demand time and care for their collection and preparation; and we must remember that we have to do with a people whose arsenals and dock yards are filled to repletion; whose supplies are upon a scale equal to any probable demand upon them; whose gigantic military and naval establishments announce their power and maintain it; and the structure of whose Government is better fitted than ours for prompt and vigorous and offensive action.

It is in the spirit of these views that I have submitted the resolutions before the Senate, and in which I ask their concurrence.

A great responsibility is upon us. We shall best discharge it by firmness, and by a wise forecast, which, while it steadily surveys the danger, makes adequate provision to meet it. By thus acting, we shall give a practical approbation of the course of the President; we shall show to our constituents that their interests are safe in our hands; we shall speak neither in a deprecating tone, nor in a tone of defiance, but of firmness, to England; and we shall give to the nations of Europe a proof that Republics are as jealous of their rights and honor, and as determined to maintain them, as monarchical governments.

The resolutions were unanimously adopted.

CHAPTER XIII.

The Slavery question—Position of Gen. Cass—The Wilmot Proviso and Mexican War—Remarks of Gen. Cass in the Senate, February 10th, 1847, on the appropriation of three millions to bring the war with Mexico to a close—His remarks on voting against the adoption of the Wilmot Proviso—Gen. Cass' letter to A. O. P. Nicholson, of Tennessee—His desire for a vigorous prosecution of the war—Tribute of praise to the Army in Mexico—Origin of the war.

The position of Gen. Cass in regard to the Slavery question, has been objected to by some of his democratic friends and by his political opponents, as inconsistent with his relations to the northern portion of the Union. His decided opposition to what is so well known as the "Wilmot Proviso," so far as its application was attempted in Congress in the creation of territorial governments, and in relation to the particular time when the attempt was made, has rendered him the most conspicuous among statesmen, against whom the friends and supporters of the proviso have arrayed themselves. The principle of this celebrated proviso, which has caused so great excitement and agitation throughout the United States for the past five years, was first introduced in the House of Representatives by a member from Massachusetts, (Hon. Mr. Winthrop) and applied to the Oregon bill. Subsequently, when war existed between the United States and Mexico, the President, desirous of terminating speedily and honorably, hostilities between the two nations, recommended Congress to authorize the expenditure of a sum of money necessary to accomplish that object. The chief obstacle in the way of an arrangement, was the settlement of a boundary line between the two Republics; an adjustment of which might probably require some concession on the part of Mexico, for which an equivalent in money would be acceptable. For the purpose indicated by the President, a bill was introduced in the House of Representatives in August, 1846, placing at the disposal of the Executive two millions of dollars. During the discussion of this bill, which was just at the close of the session, Mr.

Wilmot, Representative from Pennsylvania, offered the following as an amendment to the bill:

"*Provided*, That, as an express and fundamental condition to the acquisition of any territory from the Republic of Mexico by the United States, by virtue of any treaty which may be negotiated between them, and to the use by the Executive of the moneys herein appropriated, neither slavery nor involuntary servitude shall ever exist in any part of said territory, except for crime, whereof the party shall first be duly convicted."

The bill passed the House with this amendment on the 8th of August, 1846, the vote being eighty-seven in the affirmative and fifty-four in the negative. The bill was then sent to the Senate, and on Monday, August 10th, was, on motion of Senator Lewis, of Alabama, taken up for consideration. Mr. Lewis moved to strike from the bill the proviso which had been adopted in the House. This motion provoked a debate which did not terminate in time to allow a vote to be taken on the bill, (Hon. Senator Davis, of Massachusetts, occupying the remainder of the session in opposition to the bill and motion of Mr. Lewis,) before the time of the final adjournment of Congress arrived. As no vote was taken, it is not known what would have been the fate of the bill in the Senate, although in secret session before the introduction of the bill in the House, thirty-three Senators approved of the appropriation; but the proviso was not then incorporated in it.

At the subsequent session of Congress, the President renewed the recommendation of his special message of the previous session. Action thereon was had in Congress, and when the bill making a special appropriation of three millions to bring the war with Mexico to a speedy and honorable conclusion, came up for consideration in the Senate. Gen. Cass supported the appropriation, and in the course of his speech reviewed the relations between the two countries, the peculiar character of the war, and the propriety of legislating in regard to it, as the President recommended.

The following extracts are taken from a speech of Gen. Cass, delivered February 10th, 1847:

"We are at war with Mexico, brought on by her injustice. Before peace is established, we have a right to require a reasonable indemnity, either pecuniary or territorial, or both, for the injuries we have sustained. Such a compensation is just in itself, and in

strict accordance with the usages of nations. One memorable proof of this has passed in our own times. When the allies entered Paris, after the overthrow of Napoleon, they compelled the French Government to pay them an indemnity of fifteen hundred millions of francs, equal to three hundred millions of dollars. In the condition of Mexico, there is no disposition in this country to ask of her an unreasonable sacrifice. On the contrary, the wish is everywhere prevalent, and I am sure the Government participate in it, that we should demand less than we are entitled to. No one proposes a rigid standard, by which the indemnity shall be measured. But there are certain territorial acquisitions, which are important to us, and whose cession cannot injure Mexico, as she never can hold them permanently. We are willing, after settling the indemnity satisfactorily, to pay for the excess in money. The Senator from South Carolina has stated the proposition very distinctly, 'any excess on our part we are willing to meet, as we ought, by the necessary payment to Mexico.'"

"It is now objected to, as an immoral proposition, a kind of bribery, either of the Government of Mexico, or of its Commanding General; and the honorable Senator from Maryland, who is not now in his seat, said emphatically and solemnly, 'that this project of terminating the war by dismembering a sister republic, is so revolting to my moral sense of propriety, honor and justice, that I should see my arms palsied by my side, rather than agree to it.' The 'dismemberment' of which the honorable member speaks, is previously defined by himself. That is the term he gives the acquisition, but I call it purchase. He says the money will go to Santa Anna and pay the army, which will thus be secured, and the poor 'downtrodden' people be transferred to this country 'in spite of themselves,' in consequence of this 'pouring of gifts into the hands of their tyrants.'

"Now, sir, there is no such proposition, as I understand it, nor anything like it. The object of the President has been distinctly stated by himself. It is to have the money ready, and if a satisfactory treaty is signed and ratified, then to make a payment into the treasury of Mexico, which will be disposed of by the Government of that country, agreeably to its own laws. The propositions, both at the last session of Congress and at this, were identical. The difference in the phraseology of the appropriation has been satisfactorily explained by the chairman of the Committee on Foreign Relations, and seems to me of very little consequence. Be that as it may, it is not a subject which can produce of itself any practical difficulty. For if there is any member of the Senate, who is willing to vote for the appropriation in the form in which it was presented last year, and is unwilling to vote for it in this, the Committee on Foreign Relations will cheerfully assent to the substitution of the latter for the former."

"As to the idea, that such an arrangement is something like bribery, it seems to me it will not bear the slightest investigation.

A strange kind of bribery this! The appropriation called for was preceded by a message from the President to the Senate in secret session. It was then received in both Houses, and the doors thrown open. It was discussed fully, not to say warmly, and was finally lost by the lapse of time. In secret session thirty-three Senators voted for it. It again takes a prominent place in the President's message at the commencement of the present session of Congress. It has been before us between two and three months, and has been borne upon the wings of the wind to the remotest portions of our country. It entered Mexico long ago, and has been proclaimed upon every house-top in town and country. It is known to every citizen of that Republic, who knows anything of political affairs, whether the blood in his veins is Castilian, or Moorish, or Aztec. It has passed to Europe, and received the condemnations of many of its journals. Had it been approved there, I should doubt its policy or its justice. And for aught I know, it is travelling along the canals of the Celestial Empire. I repeat, a strange kind of bribery this! That is an offence which does its work in secret. This is a proposition made by one nation to another, in the face of the world. It is not to enable Mexico to carry on the war, as an honorable Senator seems to suppose, for it is not to be paid till the war is over."

"The whole proposition results from the peculiar condition of Mexico. Her Government is ephemeral. Its members are born in the morning and die in the evening. Administrations succeed one another, like the scenes of a theatre, rather than the events of life, and still less of events in the life of a nation. The rulers do not dare to do justice in such a case as this. It might cost them their places, to which they hold on as tenaciously as though their tenure were a secure one. There is a strong excitement in that country against us. Nothing shows this more distinctly, than the scene, which lately passed there, when their President swore that the nation would never yield one inch of its territory, nor make peace with the invader, till his foot was off its soil. A dangerous resolution to be thus publicly proclaimed, and one more easily proclaimed than kept. The sublime and the ridiculous may so easily touch, that nations should be chary of such exhibitions, which may belong to the domain of one or of the other, as subsequent circumstances stamp their character. Whatever judgment, however, history may pronounce upon this ceremony in Mexico, it is significant enough of the disposition of the people towards us. Hence the difficulty of the Government is increased, and hence the necessity of their strengthening themselves. Their revenues are drying up. They are always in debt in all their departments, civil and military. By a prompt payment into their treasury upon the ratification of a treaty, the Government will be enabled to satisfy the most pressing demands, and thus to do an act of justice at home which will counteract any ill effects of an act of justice abroad. And this is the very point of the whole matter. We may

thus tempt them to do right, while so many other strong circumstances tempt them to do wrong. As to the application of this money, after it reaches the treasury of Mexico, it is no question of ours, any more than was the application of the consideration money paid to France and Spain for the purchase of Louisiana and of Florida. We cannot follow it, and it must take its fate with the other resources of the country. It has one advantage, however, and that is its publicity. If the silver or gold were carried by wagons to the palace of the Government, the transaction could have no more publicity than it has now. And this throws upon the authorities a much graver responsibility, than do the ordinary payments, and one less likely to be abused. If all this is bribery, I am fully prepared to take my share in the guilt of it. If it is bribery, let the honest governments of Europe make the most of it."

"Passing now, sir, from the consideration of this subject to the course before us, I would observe, that there are but three plans of operation, by which we can escape from the difficulties of our position.

"The first is, an abandonment of the war, and an inglorious return to our own country.

"The second is, the establishment of a line over such a portion of the enemy's territory, as we think proper, and holding the country on this side of it without any further military operations.

"The third is, a vigorous prosecution of the war, agreeably to the public expectation, and the experience of the world.

"As to the first, sir, I do not place it in the category of things possible, but only in the category of things proposed, and I cast it from me with contempt.

"The second, sir, is a very different proposition; supported by high names, civil and military, and was yesterday presented to us with great power of argument and beauty of illustration by the distinguished Senator from South Carolina. I shall state as succinctly as I can the reasons which induce me to consider this as an inexpedient, not to say an impossible, proposition.

"A plan of operations, seeking to hold a portion of a country, properly guarded by fortresses, and furnished with the necessary lines of communication, and seeking to do this, without publicly announcing the nature of the plan, and the determination to adhere to it, is one thing. An attempt to occupy another portion of country, open, unfortified, with no natural boundaries, and penetrable in all directions, and publicly proclaiming this system as an invariable one, not to be departed from, is another, and quite a different thing. From the Gulf of Mexico, following the boundaries of the provinces now in our possession, to the Pacific ocean, is but little short of two thousand miles. Far the greater portion of it is open, and much of it unoccupied. Instead of any lines of communication, natural or artificial, where it must necessarily be crossed, it may be crossed anywhere. It is a mere paper line—a

descriptive one. For hundreds of miles on each side of a great part of the line, the country is the same; roamed over rather than possessed by nomadic tribes, and affording subsistence and shelter to the beasts of the earth. If you assume such a boundary, you necessarily place yourself upon the defensive. You must establish troops along it, and these must be scattered, occupying different positions. Your enemy thus acts in masses, while you act in detachments. If he attack you, and succeed, you are destroyed. If he attack you, and is discomfited, he falls back, behind his impenetrable barrier. A snake, clutched by an eagle, is one of the emblems of the armorial bearings of Mexico. If this plan of fighting to an air line is adopted, the proud bird will soon be powerless, and the reptile will coil itself up to strike at its leisure and its pleasure. In such a state of offensive-defensive warfare, the enemy chooses his time, when you least expect him, or are least able to resist him. He gains your rear, and cuts off your convoys and supplies, and thus reduces you to weakness and distress. Or he strikes you in a period of sickness, in a climate to which you are unaccustomed, and whose alternations do not affect him. You cannot pursue him into his country, for the moment you do that, you confess the folly of your plan, and abandon it for ever. If you cross your boundary, you must cross it to hold on, and then you have a new boundary, or, in other words, a system of unlimited operations. If you do not cross to hold on, what will you do? Your very object in crossing is to chastise the enemy; and you must pursue him to his fortresses and capture them, if he has any; or you must fight him in the open field and disperse him. I repeat, if you do not do this, you may as well stop at your boundary; look civilly at the retiring enemy, take off your hats, and say: Good bye, gentlemen; we will wait till you come back again. The riches of Crœsus would melt away, before such a system of fighting-no-fighting. The laurels of Napoleon would wither and die. No exchequer could bear the expense. No public sentiment the dishonor. There is but one such campaign, sir, recorded in all history, ancient or modern, sacred or profane, true or fabulous, and that is the campaign of Sisyphus. It was an eternal one. Sanction the plan proposed, and yours will be eternal too. This stone will never be rolled to the top of the mountain. It would be a never-ending, ever-renewing war. The distinguished Senator from South Carolina thinks, that four regiments and three fortresses along this line, and one regiment and a few small vessels for California, 'would be ample for its defence.' The line, as described by himself, is this: 'Beginning at the mouth of the Rio del Norte, and continuing up the Paso del Norte, or southern boundary of New Mexico, which nearly coincide, and then due west to the Gulf of California, striking it, according to the maps before us, nearly at its head.'

Here, sir, is a line across the continent from the Gulf of Mexico to the Gulf of California; and this line is to be so protected by

five regiments, three fortresses, and a few small vessels, as to be impervious to the rancheros and other light troops of Mexico—the best and most indefatigable horsemen, perhaps, in the world. I have enumerated, in these means of defense, a few small vessels, because they form part of the *project* of the honorable Senator. How they are to be employed in defending any part of the line, as I do not understand, I will not attempt to explain.* If the soldiers were stationed equidistant upon this boundary, they would probably be a mile apart. It seems to me, sir—and I say it with all respect—that we might as well attempt to blockade the coast of Europe by stationing a ship in the middle of the Atlantic. As to the Rio Grande, it is no defensive line at all. Rivers, when best guarded, are found to afford very insufficient protection. But in the great country south and west of us, yet in a state of nature, or slowly emerging from it, streams are entitled to very little consideration in defensive operations. Who is there, that has passed his life in the West, and has not crossed them a hundred times by swimming, in canoes, upon logs, upon rafts, and upon horses? Is it to be supposed, that an active Mexican, accustomed to the woods from his infancy, would hesitate to dash into a stream, and cross it, almost as readily as if it were unbroken ground?

But long defensive lines, even when skilfully constructed and carefully guarded, are but feeble *barriers* against courage and enterprise. How long did the Roman wall keep the North Britons out of England? How long did the Grecian wall of the Lower Empire keep the Turks out of Constantinople, and the horse-tails of their Pashas from the cathedral of Saint Sophia? And the Chinese wall—an immense labor of man—that, too opened to the Tartars, and enabled the chief of roving bands to ascend the oldest throne in the world. The best wall a country can have, is the breasts of its citizens, free, prosperous, and united.

But, sir, there is another consideration, not to be overlooked. How could you keep your own citizens on this side of your imaginary line? The honorable Senator tells us, their spirit of adventure can hardly be restrained in time of peace, and that there is always danger, they will push into the Mexican provinces. But in time of war—even of a new kind of war like this—they would feel, that the enemy's country was open to them, and their incursions would keep up a continued state of hostilities.

The Senator says, that offensive wars look to the subjugation of a country. I do not thus read the history of the world, nor the history of nations. I consider offensive wars, as necessary means for the attainment of certain just objects. Our war with England, in 1812, was an offensive one; but no American, even in his wild-

* It is due to the distinguished Senator from South Carolina to state that, when Mr. CASS had concluded his remarks, he observed that he had misunderstood him, as to the defence of the line; that the fortresses and the four regiments would be appropriated but to a part of it. If so, a large portion of the country would be left undefended, and the whole plan of operation would fail. Such a plan, to be effectual, must guard the whole line.

est dreams, ever expected to subjugate that country. Our object was to compel her to do us justice, by injuring her wherever we could. History is filled with instances of offensive wars, undertaken with no expectation of subjugation. Indeed, were it otherwise, there would be few offensive wars, unless those undertaken by very large states against very small ones. If it were so, perhaps the world would be better off. That question, however, is not before me, and I shall not travel out of my way to meet it.

The Senator says we have gained six hundred thousand square miles, and who would continue the war to secure the acknowledgment of Mexico? But, sir, it is that very acknowledgment, which is to give us the country. Until the right, which cession gives, is added to the right derived from conquest, we can make no acquisition of territory. We are still at war. It is that very act of acknowledgment, which constitutes peace, and without which there can be no peace. * * * * *

"The Senator also has submitted many sound observations respecting the diversity of character, of races, and of institutions, which exist between us and Mexico, and he deprecates, with equal zeal and justice, the union of the Mexican people and ours. I fully agree, sir, in all that. It would be a deplorable amalgamation. No such evil will happen to us in our day. We do not want the people of Mexico, either as citizens or subjects. All we want is a portion of territory, which they nominally hold, generally uninhabited, or, where inhabited at all, sparsely so, and with a population, which would soon recede, or identify itself with ours. The Senator says, speaking of Mexico, "what are you to do with the territory?" I answer, nothing at all, as a permanent acquisition. "Will you," says the Senator, "incorporate it in your Union?" Certainly not. We shall hold it as a means of procuring an honorable peace. And such a peace it may be made to procure for us.

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"The eyes of Europe are upon us. Nothing worse can happen to us, than to stop ingloriously. That is our last resource. We have, then, but to prosecute this war, as other wars are prosecuted by other nations. We have but to discard dangerous experiments, and to hold on to the experience of the world. We must breast ourselves to the shock. We must continue our occupation of Mexico, and push the invasion still farther. We must do as other people have done—we must attack and disperse her armies, take possession of her towns, and capture her fortresses. There seems to be some analogy between the cities of Paris and Mexico. Both are the native seats of revolutions. Both exert a preponderating influence over their respective countries. I have no right to give an authoritative opinion, respecting the expediency of a demonstration upon the capital. Still, I do not hesitate to say, that I think it would be a wise and probably decisive measure. It would disperse the Government, and weaken, if not break, its hold upon public opinion. It would divert the revenues from them to us. And, in addition to this resource, I agree fully with the hon-

orable Senator from Missouri in opinion, that we should call contributions to our aid, in defraying our military expenses. It is a legitimate means of support for hostile armies. It belongs to the present age, and not exclusively to the past. During all the wars in Europe in our time, almost the first thing the commander of a foreign army does, on entering an enemy's town, is to convene the magistrates, and make requisitions upon them for bread, meat, wine, forage, and such other supplies as are wanted. And this, too, under threat of military execution. And the process has been found effectual, and the practice universal.

But it is said, Mr. President, that the Mexicans will fight till the last extremity. It may be so. There are many desperate deeds recorded in history, and obstinacy is a prominent trait in the Spanish character, and belongs to all the affiliated people of that stock. But men do not fight for the mere purpose of being killed. We do not enter Mexico to conquer her—*only to conquer a peace.* We do not assail her independence. We do not seek her permanent subjugation. We only ask her to do us justice. It seems to me, then, that this is not one of those cases, sometimes prominent in the history of nations, where the public energy is aroused to a fit of desperation, and by which means victories are achieved against all previous calculations. Without government, without trade, without resources, sowing, but not to reap, or reaping but not to enjoy, and with all the evils of hostile occupation, I cannot but think, that the Mexican people may be conquered—to justice.

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During a considerable portion of last session of Congress, we were occupied in the consideration of the thesis, that nations cannot go to war in this enlightened age of the world. How we should have decided that difficult question, had a decision become necessary, I do not venture to assert. Our deliberations were suddenly interrupted by the sound of hostile cannon from India, from Australia, from the Cape of Good Hope, from Algiers, from the Caucasus, and from the La Plata, and still nearer and louder from our own frontier, which announced, that old fashioned war, with all its evils, still found abiding places upon the earth, and that we were yet far from the age of universal peace and benevolence. The disinterested English journals read us many a homily upon our pugnacious propensities; and some of the continental papers of Europe, expressed their holy horror at the assurance of that great, unbridled, trans-Atlantic democracy, in thinking it had honor and interests to assert, and courage to defend them. * *

But, sir, passing from the external view of our difficulties with Mexico, we have still an internal one to take, which involves much higher considerations. The causes of the war are a grave subject of discussion. Public opinion is investigating and pronouncing its judgment upon them. For myself, I have no fear of the result. The more the question is examined, the more manifest will be our wrongs, and the clearer our forbearance. In the President's last annual message, an interesting synopsis was given of

the conduct of Mexico towards this country. No more conclusive review of national injuries has ever appealed to the public opinion of this country, or of the world. It recapitulates, calmly, and with truth and force, the still accumulating wrongs, we had suffered, and the final act, which crowned them—the invasion of our country and the attack upon the army; an attack, which the Mexican authorities declared they would make, as far east as the Sabine river.

I shall not, Mr. President, go over the whole ground of our difficulties with Mexico. I regret, that it becomes necessary to investigate their history in this place. I regret, that unanimity does not prevail upon this subject, when unanimity is so essential to prompt and vigorous action. While I regret it, however, I impugn the motives of no one. Thank God, we are as free to investigate the conduct of the Government, as we are to breathe the air of heaven. But while I concede to others the same right I claim for myself—the right to examine freely, and to judge openly, the conduct of the Government in its intercourse with other nations—I may be allowed to express the regret, and together with the regret, the surprise, that throughout the country one undivided sentiment had not prevailed—that the conduct of Mexico left us no choice between war and dishonor.

We were the first to receive that republic into the family of nations. Our complaints against her commenced almost with the commencement of her independence. They go back to the year 1817, and come down to the present day, in one almost uninterrupted series of outrages. I shall not state them *seriatim*, nor enter into the detail of their nature and extent. This has been repeatedly done, and the official documents are before the country. I will merely classify from an able report, made by Mr. Forsyth in 1837, the various heads of complaints, which will present the general aspect of the subject:

1. Treasure belonging to citizens of the United States has been seized by Mexican officers in its transit from the capital to the coast.

2. Vessels of the United States have been captured, detained, and condemned, upon the most frivolous pretexts.

3. Duties have been exacted from others notoriously against law, or without law.

4. Other vessels have been employed, and, in some instances ruined in the Mexican service, without compensation to the owners.

5. Citizens of the United States have been imprisoned for long periods of time, without being informed of the offences with which they were charged.

6. Other citizens have been murdered and robbed by Mexican officers on the high seas, without any attempt to bring the guilty to justice.

In presenting to Congress these causes of complaint against Mexico in 1837, General Jackson stated that they "would justify, in the eyes of all nations, immediate war." This sentiment was

responded to by the Committee on Foreign Relations, both in the Senate and in the House of Representatives; the former of whom looked to a presentation of the subject at the next session of Congress, and could not doubt, but that such measures would be immediately adopted, as might be necessary to vindicate the honor of the country, and insure ample reparation to our injured citizens. And the latter said they "fully concur with the President, that ample cause exists for taking redress into our own hands, and believe, that we shall be justified in the opinion of other nations for taking such a step." President Van Buren, in December, 1837, in his message to Congress, said that "though our causes of complaint, and some of the most offensive character, admitted of an immediate and satisfactory reply, yet it was only within a few days that any answer had been received, and that no satisfaction had been given or offered for one of our public complaints, and that only one case of personal wrong had been favorably considered, and that but four cases out of all, had been decided by the Mexican Government." President Van Buren distinctly told Congress, that redress was beyond the reach of the Executive, and could only be obtained by the action of Congress, which action must, of course, have been war.

As to the conventions, which have since been made by the two countries, and violated by Mexico, I need not enter into their history: they are fresh in the recollection of all. These three conventions, by the infidelity of the Mexican Government, have proved nearly fruitless; and after thirty years of injury on the one side, and of remonstrance on the other, there is nothing left for us, but to abandon all hope of redress, or to obtain it by a vigorous prosecution of the war. Is there another government on the face of the earth which would have been thus patient, not to say humble, during the long progress of such aggressions? And it is now too late to tell us, that we have hastily and unnecessarily commenced war, when the war was commenced by the enemy, and when, if we had struck the first stroke, we should have been justified in the eyes of the world, and of posterity. But it may be said, and it has been said, that although sufficient causes of war existed on our part, still it was not these causes, which provoked immediate hostilities. This view, if true, has relation to the expediency, and not to the justice of the war. But what are the general facts, upon which a just conclusion can be formed? After the convention of Texas had decided, that that republic would annex herself to the United States, agreeably to the terms held out in the act of Congress, but before its consummation by a vote of the Texan people, we were under a strong moral obligation to protect her from any foreign invasion, and more particularly from any invasion, to which she might be exposed by the manifestations of her intentions to attach herself to the United States. I shall not argue this point. No illustration can make it stronger. As soon, therefore, as the incipient steps had been taken, our troops entered

Texas, by the invitation of the proper authorities, and on the 15th day of August, 1845, they had taken a position at Corpus Christi, west of the Nueces, and remained there till the 17th of March, 1846, when they marched for the Rio Grande. So much for our military movements.

Two causes are alleged, as giving Mexico just cause of war against the United States. The first, which is the annexation of Texas, is jointly urged both in Mexico and in this country. The second, which I believe finds its advocates only in the United States, is that our army occupied the country between the Nueces and the Rio Grande.

As to the first, it has passed the ordeal of public opinion, and received its final judgment. I do not flatter myself, that I could present any new views of a subject, so long and so publicly discussed. But, as it stands in my way, and I cannot avoid it, I shall venture to submit a few reflections, which have occurred to me.

The right of a country to reduce to obedience a portion of its territory, asserting independence by arms, is not denied. The recognized principles of the law of nations require other powers to afford no aid to either party, during the actual progress of the controversy. They may acknowledge, however, and in fact, they often do acknowledge, the independence of the insurrectionary province, without giving to the Government, claiming its allegiance, any just cause of offence. They did so to Mexico during the progress of her revolutionary war with Spain, and they did so to Texas, while a similar relation existed between her and Mexico. But there is a limit to this right. Such a war cannot last forever, and two nations cannot forever be kept in this peculiar attitude, involving delicate questions, that may at any time disturb the peace of the world. When Greece declared her independence of Turkey, the Porte waged a war of many years to reduce her to subjection. The principal powers of Europe, believing that a reasonable opportunity had been afforded to the Turkish Government to re-establish its supremacy, and in which effort it had failed, determined, that an end should be put to the operations. They therefore interfered, and announced to the Sultan, that the time had come when Greece must be independent. And this declaration was maintained by force, and at Navarino, to use a villified, but very proper expression, they conquered a peace. This is perhaps a strong case, for this interference took place *flagrante bello*, while a Turkish army was yet engaged in operations to put down the spirit of freedom in Greece. As a general principle, it may be assumed, that while both parties are waging open war, to assert their superiority, other nations should look on and peacefully bide the issue. But when the contest is actually abandoned, and the invading party withdraws from the disputed territory, and relinquishes all military operations, the struggle is over. Independence is established, and whatever may be the nominal relations of the two countries, they are henceforth in the same attitude—equal powers among the na-

tions of the earth. The war is in effect over, and its rights should pass away with itself. This is the true view of the subject; and applying these principles to the then existing relations, between Mexico and Texas, we shall find that the latter power was as free from Mexico, as we are from England. No effort had been made by the Mexican Government for ten years to reduce her revolted province to subjection. Not a hostile foot had trodden the Texan soil. A chief magistrate, and at the same time, commander-in-chief, captured; an army destroyed; and all invaders repelled, were the fruits of her last exertion. They crowned at once her patriotism, and sealed her fate. She was thenceforth independent. And no more decisive evidence of this result can be furnished, than the very conduct of Mexico herself. What did she do, probably under other promptings, when it was ascertained, that Texas desired admission into our Confederacy? She offered to acknowledge her independence, if she would pledge herself not to join the American Union. A jealous and an unworthy proposal, which the one had no right to make, and which the other indignantly rejected. A proposal, which was, in fact, the very recognition offered. It acknowledged the strength of Texas, and the weakness of Mexico, and that further efforts at subjugation were hopeless. For myself, I have always considered that act of the Mexican Government, as an abandonment of the controversy, and an admission, that Texas was independent of her, and beyond her power.

But as reasonable men, looking at things as they are, what injury have we inflicted upon Mexico, under any just view, that can be taken of her relations with Texas? What has she lost by our interference? Her own claim may be summed up in this, that she had a contingent right to reduce Texas to submission. And what was that right worth? Where is the man in Texas, in Mexico, even in Christendom, who believes there was a bare possibility, that the Texan people could ever be replaced in their primitive condition by the power of the Mexican Government? The thing was impossible. Its time had gone by. Events had rolled over and crushed all hopes of recovery. Of what, then, does Mexico complain? Certainly of no pecuniary injury, for none has been inflicted. If annexation has had any effect, in this point of view that effect has been beneficial; for it has saved to the Mexican people an immense and useless expenditure of blood and treasure. Is there any point of honor involved? I can discern none. For the principal fact that Mexico was powerless, was felt and acknowledged by all the world. I know what may be said upon this subject, sir, Rights may be pushed to their extremes; principles to their utmost bearing. And as Mexico had an absolute right, we should have left it to her. I do not deal with such questions, nor with their consequences. I take the public affairs of this world, as they are, judging them by the rules of common sense, and pronouncing them just or unjust, as they come up to, or recede from, that universal standard.

But, sir, there is one consideration, which renders it proper we should still keep in view the previous wrongs, which Mexico had inflicted upon us. Her conduct, in the long progress of these outrages, had established her character. Redress was impossible. Thirty years were, with her, as one day, and one day as thirty years; for, at the end of that period, we were about where we began, so far as respects satisfaction, while our causes of complaint had gone on accumulating, almost in an inverse proportion, to the lapse of time. We had found, by experience, there could be no amicable and satisfactory adjustment of our difficulties with Mexico. We had learned—and learned to our sorrow—that what we got we had to take with the strong hand. What greater probability was there, that we should adjust the question of unsettled boundaries, after her hostile and peremtory declaration, than that we should adjust our causes of complaint, many of which she admitted, and scarcely any of which she denied? We claim Texas to the Rio Grande I will not stop to examine the grounds of that claim. This has been explained and defended by others, more competent to the task than I am. In this Senate the strongest position I have heard taken in opposition to the extent of this claim, is, that much may be said on both sides. Well, then, we had a reasonable claim. I say, an undoubted one, and we took the assertion of it into our own hands. And, the jeremaiads of the London journals to the contrary notwithstanding, I do not believe there is a government in Christendom, if it felt itself able, which, under similar circumstances, would not have done as we did. The past had marked out the future. The indication was unerring. And we judged for ourselves, and acted for ourselves, as we had a right to do, after Mexico, for the third part of a century, had shown a dogged determination to refuse us justice.

But, sir, had we taken the initiative, and commenced war immediately, we should have been justified from other considerations. When the act for annexation passed, the Mexican Minister in this country immediately protested against that measure; and, in fact, declared it to be just cause of war. And this view was more authoritatively announced by the supreme Government of Mexico, March 12, 1846, which declared, in a note to Mr. Slidell, that it looked "upon annexation as a *casus belli*; and as a consequence of this declaration, negotiation was by its very nature at an end, and war was the only recourse of the Mexican Government." But before this last and decisive act, the Government of Mexico had given many indications of its determination to resist, by force, the annexation of Texas; and particularly those announced in the communications from our Consul, and from our Minister in Mexico, and in the letter of the Mexican Minister of Foreign Affairs, of December 20, 1845. In this last document, that functionary says that "the questions which have disturbed the harmony between the two countries, will bring on a war between them, unless such settlement be effected in a satisfactory manner," &c. What set-

tlement the Mexican Government demanded, and for want of which it is said a *casus belli* had occurred, was a change in our relations with Texas; leaving to Mexico the assertion of her assumed rights over it. In short, sir, from the first moment it appeared probable, that Texas would be admitted into our Confederacy, to our latest diplomatic communication with her Government, Mexico has told us and the world, that annexation would be, and is war; and she went on preparing to add deeds to declarations, by the concentration of her forces, so as to be ready to take the "initiative" in hostilities against us, to borrow the expression of General Paredes in his orders to the Mexican commanding general. I need not recapitulate the series of facts, which announced and confirmed her purposes. They have passed into history, and are known to us all. The Texas of Mexico, was Texas to the Sabine, with no intermediate boundary, to which we might go with impunity, and make the country our own. That river was a Rubicon, and it became us to pause and ponder on its banks, before we crossed its stream, and carried our standard to the country beyond. In all the communications of the Mexican Government, no distinction is made between the Nueces and the Rio Grande. And the occupation, by our forces, of the country between these rivers, which took place in August, 1845, was never presented as an exclusive cause of complaint, nor indeed, noticed in any manner whatever. It was the annexation and occupation of Texas, and not of any particular portion of Texas, which led to the reclamations, and finally to the hostilities of Mexico. It was a question of title, and not of boundary. A claim of right, which went for the whole, and would never be satisfied with the relinquishment of a part. And, sir, the warning and threatenings of Mexico were no vain boastings. She said what she would do, and she did as she said. At the commencement of April, 1846, and before it could have been known in Mexico, that General Taylor had advanced to the Rio Grande, the President of that republic directed its general upon the frontier to "attack" our army "by every means, which war permits." It was not till after this, and in fact till after our occupation of the country west of the Nueces, for upwards of eight months, without a single allusion to that river, that it first makes its appearance in a Mexican communication. And it is then found in a letter from Ampudia to General Taylor, who is required to break up his camp within twenty-four hours, and to withdraw to the eastern side of the Nueces. Such a demand, under such circumstances, admitted but one answer, and it got it, and that answer was No. And General Taylor was as speedy as he was brief; for the same day gave birth to the demand, and to the refusal. It surely cannot be necessary to enter into the decisive considerations, going to show that such a retrograde movement was then impossible. We had taken up a position peaceably within our own territory, as we claimed it, and with no intimation from our opponent, that that position was any more an infraction of his rights,

than would have been the occupation of the western bank of the Sabine. I repeat, that during eight months, we had been west of the Nueces, without one word of complaint for having passed that river. * * * * * * * * * * *

But, sir, passing from the causes to the conduct of the war, another broad field of controversy has been opened to us. We are attacked along our whole line. The reasons, the measures, the motives, the objects of the Administration are equally called into question. I do not flatter myself, that any views I can present, will influence the final judgment, which the Senate and the country must pronounce on this great controversy; still, I have formed an opinion for myself, and desire briefly to state the considerations, on which it is founded.

In order justly to appreciate the probable results of this war, it is necessary to look back upon the condition of the country, at its commencement. What was that commencement? A sudden attack precipitated a Mexican army upon a detachment of American troops. Twice were the assailants repulsed, and twice was the honor of our arms maintained, and two brilliant victories were gained under circumstances, which no American can recall, without emotions of pride and patriotism. We had made but inadequate preparations for such an aggression. Its scene was almost two thousand miles from the seat of government. Our whole army, of which only a portion was on that frontier, did not exceed seven thousand men scattered along the coast and interior boundary of this vast republic. And what spectacle was exhibited when the news of this aggression broke upon the public ear? The citizens of Greece and Rome, in the brightest days of those republics, never brought to the altar of their country a prouder sacrifice. There was one universal burst of patriotic devotion. More than three hundred thousand men enrolled themselves, and asked to be permitted to march to the battle-field, and, if necessary, to die for their country. I have seen the conscription in Europe, by which armies are kept up, and freedom is kept down; and I have attended the drawing, to ascertain the circumstances accompanying it. And a melancholy exhibition it is of power on one side, of repugnance on the other. The young men are collected at the place assigned for this lottery of life. Their numbers are drawn in succession, and they await the result with almost fearful anxiety; as a great calamity is always awaited by those on whom it may fall and who are yet ignorant where it will strike, and where it will spare. And the exultation of those, who escape, and the depression of those, who do not, are strikingly displayed, not only by the parties themselves, but by their immediate connexions, who accompany them, and await the result with an apprehension, scarcely inferior to their own.

But here, sir, there was none of the machinery, by which unwilling citizens are made conscripts and conscripts are made unwilling soldiers. As I remarked on a former occasion, at the first

tap of the drum, at the first sound of the bugle, the country rose in arms—the artisan left his tools where he had used them—the farmer his plough in the furrow—the employments of life were abandoned—and a spectacle passed before our eyes, unseen in modern times. It has been computed, that almost half a million of men appealed to their Government for the privilege of participating in the vindication of its honor, and in the defence of their country."

The policy of Gen. Cass was, to carry on the war vigorously, and so ensure a successful and speedy termination of it. This course he regarded as most beneficial to both countries. The more the war was prolonged, the greater probability would there be of swallowing up the nationality of Mexico.

On a subsequent day, in tne same session of Congress, while the bill was yet under consideration with the proposition to incorporate in it the "Wilmot Proviso," Gen. Cass addressed the Senate more particularly in reference to the impropriety of adopting the proviso, and the influence its passage would have upon other necessary and important measures then before Congress.

From the feelings manifested by a large number of the members, both of the House of Representatives and the Senate, Gen. Cass arrived at the conclusion, that the adoption of the proviso would be detrimental to the honorable prosecution of the war. Indeed, it appears from the expression of opinion by the leading members of both Houses, that the whole question of the prosecution of the war depended upon the decision in regard to the proviso. The choice presented was, the proviso or the war. If the former should be adopted, there would be an inglorious termination of the war. The honor of the United States was at stake. Gen. Cass felt the responsibility of his position. He judged that the people would hold to strict accountabiltiy the public servants who, at a crisis so eventful, should sacrifice their country's honor and interest for the establishment of a principle inopportune and inapplicable to the great subject under consideration. He had studied public opinion, and satisfied himself that it indicated the conviction existing in the minds of the people, that then was not the time for the agitation of a question involving the contingency of a domestic dispute; a question sufficiently important of itself, under any circumstances, to receive the most mature deliberation

of Congress. Six out of eight state legislatures, which had presented their views to Congress on the subject of the acquisition of Mexican territory and the extension of slavery, had refrained from urging upon Congress the adoption of the proviso. In a speech of masterly argument, Gen. Cass laid before the Senate his views on this question, March 10th, 1847, which he closed with the following declaration of what would be his action upon it:

"I shall vote against this proviso, because—

"1st. The present is no proper time for the introduction into the country, and into Congress, of an exciting topic, tending to divide us, when our united exertions are necessary to prosecute the existing war.

"2d. It will be quite in season to provide for the government of territory, not yet acquired from foreign countries, after we shall have obtained it.

"3d. The proviso can only apply to British and Mexican territories, as there are no others coterminous to us. Its phraseology would reach either, though its application is pointed to Mexico. It seems to me, that to express so much confidence in the successful result of this war, as to legislate at this time, if not *over* this anticipated acquisition, at least *for* it, and to lay down a partial basis for its government, would do us no good in the eyes of the world, and would irritate, still more, the Mexican people.

"4th. Legislation now would be wholly inoperative, because no territory, hereafter to be acquired, can be governed without an act of Congress, providing for its government. And such an act, on its passage, would open the whole subject, and would leave the Congress called upon to pass it, free to exercise its own discretion, entirely uncontrolled by any declaration found on the statute book.

"5th. There is great reason to think, that the adoption of this proviso would, in all probability, bring the war to an untimely issue, by the effect it would have on future operations.

"6th. Its passage would certainly prevent the acquisition of one foot of territory; thus defeating a measure called for by a vast majority of the American people, and defeating it, too, by the very act purporting to establish a partial basis for its government."

The Wilmot Proviso having become a subject of serious import, and its principle regarded as dangerous to the immediate interests of a portion of the people of the United States, and the proposed application of it subversive of their rights as citizens of the confederacy, an expression of opinion from the eminent men of the Republic was solicited. At the request of a number of leading members of Congress, Gen. Cass consented to the publication of a letter written by him to Hon. A. O. P. Nicholson, a distinguish-

ed citizen of Tennessee, setting forth his views on the subject of the proviso. This celebrated letter, so often referred to and made the subject of comment, from the day of its publication to the present time, is an important document to all who wish to understand the views of its distinguished author, as expressed by himself, on the great question which it discusses, and is here given entire:

Letter from Hon. Lewis Cass on the War and the Wilmot Proviso.

WASHINGTON, December 24, 1847.

DEAR SIR: I have received your letter, and shall answer it as frankly as it is written.

You ask me whether I am in favor of the acquisition of Mexican territory, and what are my sentiments with regard to the Wilmot Proviso?

I have so often and so explicitly stated my views of the first question, in the Senate, that it seems almost unnecessary to repeat them here. As you request it, however, I shall briefly give them.

I think, then, that no peace should be granted to Mexico, till a reasonable indemnity is obtained for the injuries which she has done us. The territorial extent of this indemnity is, in the first instance, a subject of Executive consideration. There the Constitution has placed it, and there I am willing to leave it; not only because I have full confidence in its judicious exercise, but because, in the ever-varying circumstances of a war, it would be indiscreet, by a public declaration, to commit the country to any line of indemnity, which might otherwise be enlarged, as the obstinate injustice of the enemy prolongs the contest, with its loss of blood and treasure.

It appears to me that the kind of metaphysical magnanimity, which would reject all indemnity at the close of a bloody and expensive war, brought on by a direct attack upon our troops by the enemy, and preceded by a succession of unjust acts for a series of years, is as unworthy of the age in which we live, as it is revolting to the common sense and practice of mankind. It would conduce but little to our future security, or, indeed to our present reputation, to declare that we repudiate all expectation of compensation from the Mexican government, and are fighting, not for any practical result, but for some vague, perhaps philanthropic object, which escapes my penetration, and must be defined by those who assume this new principle of national intercommunication. All wars are to be deprecated, as well by the statesman, as by the philanthropist. They are great evils; but there are greater evils than these, and submission to injustice is among them. The nation which should refuse to defend its rights and its honor, when assailed, would soon have neither to defend; and when driven to war, it is not by professions of disinterestedness and declarations of magnanimity, that its rational objects can be best obtained, or

other nations taught a lesson of forbearance—the strongest security for permanent peace. We are at war with Mexico, and its vigorous prosecution is the surest means of its speedy termination, and ample indemnity the surest guaranty against the recurrence of such injustice as provoked it.

The Wilmot proviso has been before the country some time. It has been repeatedly discussed in Congress, and by the public press. I am strongly impressed with the opinion, that a great change has been going on in the public mind upon this subject—in my own as well as others; and that doubts are resolving themselves into convictions, that the principle it involves should be kept out of the National Legislature, and left to the people of the confederacy in their respective local governments.

The whole subject is a comprehensive one, and fruitful of important consequences. It would be ill-timed to discuss it here. I shall not assume that responsible task, but shall confine myself to such general views as are necessary to the fair exhibition of my opinions.

We may well regret the existence of slavery in the southern States, and wish they had been saved from its introduction. But there it is, and not by the act of the present generation; and we must deal with it as a great practical question, involving the most momentous consequences. We have neither the right nor the power to touch it where it exists; and if we had both, their exercise, by any means heretofore suggested, might lead to results which no wise man would willingly encounter, and which no good man could contemplate without anxiety.

The theory of our Government presupposes that its various members have reserved to themselves the regulation of all subjects relating to what may be termed their internal police. They are sovereign within their boundaries, except in those cases where they have surrendered to the General Government a portion of their rights, in order to give effect to the objects of the Union, whether these concern foreign nations or the several States themselves. Local institutions, if I may so speak, whether they have reference to slavery, or to any other relations, domestic or public, are left to local authority, either original or derivative. Congress has no right to say that there shall be slavery in New York, or that there shall be no slavery in Georgia; nor is there any other human power but the people of those States, respectively, which can change the relations existing therein; and they can say, if they will, We will have slavery in the former, and we will abolish it in the latter.

In various respects the Territories differ from the States. Some of their rights are inchoate, and they do not possess the peculiar attributes of sovereignty. Their relation to the General Government is very imperfectly defined by the Constitution; and it will be found, upon examination, that in that instrument the only grant of power concerning them is conveyed in the phrase, "Congress

shall have the power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States." Certainly this phraseology is very loose, if it were designed to include in the grant the whole power of legislation over persons, as well as things. The expression, the "territory and other property," fairly construed, relates to the public lands, as such, to arsenals, dock-yards, forts, ships, and all the various kinds of property, which the United States may and must possess.

But surely the simple authority to *dispose of and regulate* these, does not extend to the unlimited power of legislation; to the passage of all *laws*, in the most general acceptation of the word; which, by the by, is carefully excluded from the sentence. And, indeed, if this were so, it would render unnecessary another provision of the Constitution, which grants to Congress the power to legislate, with the consent of the States, respectively, over all places purchased for the "erection of forts, magazines, arsenals, dock-yards," &c. These being the "*property*" of the United States, if the power to make "needful rules and regulations concerning" them includes the general power of legislation, then the grant of authority to regulate "the territory and other property of the United States" is unlimited, wherever subjects are found for its operation, and its exercise needed no auxiliary provision. If, on the other hand, it does not include such power of legislation over the "other property" of the United States, then it does not include it over their "*territory;*" for the same terms which grant the one, grant the other. "*Territory*" is here classed with property, and treated as such; and the object was evidently to enable the General Government, as a property-holder—which, from necessity, it must be—to manage, preserve, and "*dispose of*" such property as it might possess, and which authority is essential almost to its being. But the lives and persons of our citizens, with the vast variety of objects connected with them, cannot be controlled by an authority which is merely called into existence for the purpose of making *rules and regulations for the disposition and management of property.*

Such, it appears to me, would be the construction put upon this provision of the Constitution, were this question now first presented for consideration, and not controlled by imperious circumstances. The original ordinance of the Congress of the Confederation, passed in 1787, and which was the only act upon this subject in force at the adoption of the Constitution, provided a complete frame of government for the country north of the Ohio, while in a territorial condition, and for its eventual admission in separate States into the Union. And the persuasion, that this ordinance contained within itself all the necessary means of execution, probably prevented any direct reference to the subject in the constitution, further than vesting in Congress the right to admit the States formed under it into the Union. However, circumstances

arose which required legislation, as well over the territory north of the Ohio, as over other territory, both within and without the original Union, ceded to the General Government; and, at various times, a more enlarged power has been exercised over the *Territories*—meaning thereby the different Territorial Governments—than is conveyed by the limited grant referred to. How far an existing necessity may have operated in producing this legislation, and thus extending, by rather a violent implication, powers not directly given, I know not. But certain it is, that the principle of interference should not be carried beyond the necessary implication which produces it. It should be limited to the creation of proper governments for new countries, acquired or settled, and to the necessary provision for their eventual admission into the Union; leaving, in the meantime, to the people inhabiting them, to regulate their internal concerns in their own way. They are just as capable of doing so as the people of the States; and they can do so, at any rate, as soon as their political independence is recognized by admission into the Union. During this temporary condition, it is hardly expedient to call into exercise a doubtful and invidious authority, which questions the intelligence of a respectable portion of our citizens, and whose limitation, whatever it may be, will be rapidly approaching its termination—an authority which would give to Congress despotic power, uncontrolled by the Constitution, over most important sections of our common country. For, if the relation of master and servant may be regulated or annihilated by its legislation, so may the relation of husband and wife, of parent and child, and of any other condition which our institutions and the habits of our society recognize. What would be thought if Congress should undertake to prescribe the terms of marriage in New York, or to regulate the authority of parents over their children in Pennsylvania? And yet it would be as vain to seek one justifying the interference of the National Legislature in the cases referred to in the original States of the Union. I speak here of the inherent power of Congress, and do not touch the question of such contracts as may be formed with new States when admitted into the Confederacy.

Of all the questions that can agitate us, those which are merely sectional in their character are the most dangerous, and the most to be deprecated. The warning voice of him who, from his character, and services, and virtue, had the best right to warn us, proclaimed to his countrymen, in his Farewell Address—that monument of wisdom for him, as I hope it will be of safety for them—how much we had to apprehend from measures peculiarly affecting geographical portions of our country. The grave circumstances in which we are now placed make these words, words of safety; for I am satisfied from all I have seen and heard here, that a successful attempt to ingraft the principles of the Wilmot proviso upon the legislation of this Government, and to apply them to new territory, should new territory be acquired, would seriously affect

our tranquillity. I do not suffer myself to foresee or to foretell the consequences that would ensue; for I trust and believe there is good sense and good feeling enough in the country to avoid them, by avoiding all occasions which might lead to them.

Briefly, then, I am opposed to the exercise of any jurisdiction by Congress over this matter; and I am in favor of leaving to the people of any territory, which may be hereafter acquired, the right to regulate it for themselves, under the general principles of the Constitution. Because—

1. I do not see in the Constitution any grant of the requisite power to Congress; and I am not disposed to extend a doubtful precedent beyond its necessity—the establishment of Territorial Governments when needed—leaving to the inhabitants all the rights compatible with the relations they bear to the Confederation.

2. Because I believe this measure, if adopted, would weaken, if not impair, the Union of the States; and would sow the seeds of future discord, which would grow up and ripen into an abundant harvest of calamity.

3. Because I believe a general conviction, that such a proposition would succeed, would lead to an immediate withholding of the supplies, and thus to a dishonorable termination of the war. I think no dispassionate observer at the seat of government can doubt this result.

4. If, however, in this I am under a misapprehension, I am under none in the practical operation of this restriction, if adopted by Congress, upon a treaty of peace making any acquisition of Mexican territory. Such a treaty would be rejected just as certainly as presented to the Senate. More than one-third of that body would vote against it, viewing such a principle as an exclusion of the citizens of the slave holding states from a participation in the benefits acquired by the treasure and exertions of all, and which should be common to all. I am repeating—neither advancing nor defending these views. That branch of the subject does not lie in my way, and I shall not turn aside to seek it.

In this aspect of the matter, the people of the United States must choose between this restriction and the extension of their territorial limits. They cannot have both; and which they will surrender must depend upon their representatives first, and then, if these fail them, upon themselves.

5. But, after all, it seems to be generally conceded, that this restriction, if carried into effect, could not operate upon any state to be formed from newly-acquired territory. The well-known attributes of sovereignty, recognized by us as belonging to the state governments, would sweep before them any such barrier, and would leave the people to express and exert their will at pleasure. Is the object, then, of temporary exclusion for so short a period as the duration of the territorial governments, worth the price at which it would be purchased?—worth the discord it would en-

gender, the trial to which it would expose our Union, and the evils that would be the certain consequence, let that trial result as it might? As to the course, which has been intimated rather than proposed, of ingrafting such a restriction upon any treaty of acquistion, I persuade myself it would find but little favor in any portion of this country. Such an arrangement would render Mexico a party, having a right to interfere in our internal institutions in questions left by the Constitution to the state governments, and would inflict a serious blow upon our fundamental principles. Few, indeed, I trust, there are among us who would thus grant to a foreign power the right to inquire into the constitution and conduct of the sovereign states of this Union; and if there are any, I am not among them, and never shall be. To the people of this country, under God, now and hereafter, are its destinies committed; and we want no foreign power to interrogate us, treaty in hand, and to say, Why have you done this, or why have you left that undone? Our own dignity and the principles of the national independence unite to repel such a proposition.

But there is another important consideration, which ought not to be lost sight of, in the investigation of this subject. The question that presents itself is not a question of the increase, but of the diffusion of slavery. Whether its sphere be stationary or progressive, its amount will be the same. The rejection of this restriction will not add one to the class of servitude, nor will its adoption give freedom to a single being who is now placed therein. The same numbers will be spread over greater territory; and so far as compression, with less abundance of the necessaries of life, is an evil, so far will that evil be mitigated by transporting slaves to a new country, and giving them a larger space to occupy.

I say this in the event of the extension of slavery over any new acquisition. But can it go there? This may well be doubted. All the descriptions, which reach us of the condition of the Californias and of New Mexico, to the acquisition of which our efforts seem at present directed, unite in representing those countries as agricultural regions, similar in their products to our Middle States, and generally unfit for the production of the great staples, which can alone render slave labor valuable. If we are not grossly deceived—and it is difficult to conceive how we can be—the inhabitants of those regions, whether they depend upon their ploughs or their herds, cannot be slave holders. Involuntary labor, requiring the investment of large capital, can only be profitable when employed in the production of a few favored articles confined by nature to special districts, and paying larger returns than the usual agricultural products spread over more considerable portions of the earth.

In the able letter of Mr. Buchanan upon this subject, not long since given to the public, he presents similar considerations with great force. "Neither," says this distinguished writer, "the soil, the climate, nor the productions of California south of thirty-six

degrees thirty minutes, nor indeed of any portion of it, north or south, is adapted to slave labor; and besides, every facility would be there afforded for the slave to escape from his master. Such property would be entirely insecure in any part of California. It is morally impossible, therefore, that a majority of the emigrants to that portion of the territory south of thirty-six degrees thirty minutes, which will be chiefly composed of our citizens, will ever re-establish slavery within its limits.

"In regard to New Mexico, east of the Rio Grande, the question has already been settled by the admission of Texas into the Union.

"Should we acquire territory beyond the Rio Grande and east of the Rocky mountains, it is still more impossible that a majority of the people would consent to re-establish slavery. They are themselves a colored population, and among them the negro does not belong socially to a degraded race."

With this last remark Mr. Walker fully coincides in his letter written in 1844, upon the annexation of Texas, and which everywhere produced so favorable an impression upon the public mind, as to have conduced very materially to the accomplishment of that great measure. "Beyond the Del Norte," says Mr. Walker, "slavery will not pass; not only because it is forbidden by law, but because the colored race there preponderates in the ratio of ten to one over the whites; and holding, as they do, the government and most of the offices in their possession, they will not permit the enslavement of any portion of the colored race, which makes and executes the laws of the country."

The question, it will be therefore seen on examination, does not regard the exclusion of slavery from a region where it now exists, but a prohibition against its introduction where it does not exist, and where, from the feelings of the inhabitants and the laws of nature, "it is morally impossible," as Mr. Buchanan says, that it can ever re-establish itself.

It augurs well for the permanence of our confederation, that during more than half a century, which had elapsed since the establishment of this government, many serious questions, and some of the highest importance, have agitated the public mind, and more than once threatened the gravest consequences; but that they have all in succession passed away, leaving our institutions unscathed, and our country advancing in numbers, power, and wealth, and in all the other elements of national prosperity, with a rapidity unknown in ancient or in modern days. In times of political excitement, when difficult and delicate questions present themselves for solution, there is one ark of safety for us; and that is, an honest appeal to the fundamental principles of our Union, and a stern determination to abide their dictates. This course of proceeding has carried us in safety through many a trouble, and I trust will carry us safely through many more, should many more be destined to assail us. The Wilmot Proviso seeks to take from its legitimate

tribunal a question of domestic policy, having no relation to the Union, as such, and to transfer it to another created by the people for a special purpose, and foreign to the subject-matter involved in this issue. By going back to our true principles, we go back to the road of peace and safety. Leave to the people, who will be affected by this question, to adjust it upon their own responsibility, and in their own manner, and we shall render another tribute to the original principles of our government, and furnish another guarantee for its permanence and prosperity.

I am, dear sir, respectfully, your obedient servant,

LEWIS CASS.

A. O. P. Nicholson, Esq., *Nashville, Tenn.*

The prevailing sentiment of the foregoing letter will at once impress the reader with the patriotism and nationality of Gen. Cass. Undoubtedly it was the offspring of a conviction in the mind of the distinguished writer, that the pressing upon Congress the adoption of the Proviso at that time, was urging that body, not only to give its sanction to an act of legislation, useless in itself, so far as its direct object was sought to be attained, but asking its interposition in a shape which was, by many of the eminent men of the country, considered unconstitutional, besides directly opposing the wishes of a large portion of the members of the Union; creating causes for discord and domestic hostility and endangering the honor and well-being of the Republic, and which, in the aspect in which it was presented to Congress, did not need the action of that body. Gen. Cass expressly states his opinion to be, "that slavery never would extend to California or New Mexico, and that the inhabitants of those regions, whether they depend on their ploughs or their herds, cannot be slave holders." He treats the question as one, not having reference to the exclusion of slavery from a region where it existed, but a prohibition against its introduction where it did not exist, and where, from the feelings of the inhabitants and the laws of nature, it is morally impossible it could establish itself. It is worthy of note, that the views expressed by Gen. Cass in the foregoing letter, have not only entered into and marked the legislation of Congress on the subject, but have also been, within the last two years, adopted by many of the most eminent men in the country, establishing firmly the soundness of the position assumed by Gen. Cass at the commencement of the agitation of the question.

The energetic prosecution of the war with Mexico, was repeatedly urged upon the consideration of the Senate, by Gen. Cass. As Chairman of the Committee on Military Affairs, he held a position of great responsibility, and introduced a series of bills whose provisions were admirably calculated to accomplish a successful termination of the war. There were parties who were unsparing in their condemnation of the administration and its friends, and were disposed to leave the army in Mexico unprovided for and unaided. It was charged upon the administration that it was its intention to subjugate Mexico and destroy its nationality, notwithstanding the repeated declaration by the President and his supporters that no such result was ever even dreamed of, and in the face of Gen. Cass' own assertion, that it would be a very unfortunate thing to extinguish the independence of Mexico and annex that country to our own. The administration, after the war was commenced, sought only for redress and indemnification for injuries sustained, and its policy was to go on with the war until Mexico would agree to an honorable peace. To attain this desirable object, Gen. Cass introduced the bill, to raise for a limited time, an additional military force—proposing that ten regiments of infantry should be added to the force already in the field to serve during the war. The discussion of this bill afforded an opportunity for the opposers of the administration and the war to exhibit their hostility. The American army had been successful; the hosts of Mexico had fled before it and her towns and cities were in possession of the conquerors; the "Halls of Montezuma" were decorated with the star spangled banner, and the national music of the Union sounded within her ancient Capitol, yet no overtures of peace were made. The soldiers of our army, eight or ten thousand strong, were far in the interior of the enemy's country, surrounded by angry and exasperated natives, among whom they had marched, forcing their way with the sword, until they stood victors within the gates of the city of Mexico. The diseases of the climate and the hazards of war might change within a short period the relative position of the conquerors and conquered. To avoid such disaster—to secure what that gallant army had achieved—to put beyond hazard a brilliant and glorious termination of the war, was the object sought for by Gen. Cass in urging the increase of the army in

Mexico. He urged it upon the obvious ground, that if a large force was raised and despatched to Mexico, the Mexicans would be convinced that peace would be their only means of salvation; and that the more vigorous our preparations, the more fixed our determination to act with vigor and energy, the sooner would peace be sought for by a conquered enemy. It was surely an act of wise precaution to strengthen the forces in Mexico against all contingency of disaster, in the event of the prolongation of active warfare. It was in introducing this bill to the notice of the Senate, that Gen. Cass paid the following eloquent tribute to the bravery of the citizen soldiers in Mexico:

"There is one point, sir, where we can all meet, and that is the gallantry and good conduct of our country. This is one of the high places to which we can come up together, and laying aside our party dissension, mingle our congratulations that our country has had such sons to go forth to battle, and that they have gathered such a harvest of renown in distant fields. The time has been, and there are those upon this floor who remember it well, when our national flag was said to be but striped bunting, and our armed vessels but fir-built frigates. The feats of our army and navy, in our last war with England, redeemed us from this reproach, the offspring of foreign jealousy; and had they not, the events of the present war would have changed these epithets into terms of honor; for our flag has become a victorious standard, borne by marching columns, over the hills and vallies, and through the cities and towns and fields of a powerful nation, in a career of success, of which few examples can be found in ancient or modern warfare.

"The movement of our army from Puebla, was one of the most romantic and remarkable events which ever occurred in the military annals of any country. Our troops did not indeed burn their fleet, like the first conquerors of Mexico, for they needed not to gather courage from despair, nor to stimulate their resolution by destroying all hopes of escape. But they voluntarily cut off all means of communication with their own country, by throwing themselves among the armed thousands of another, and advancing with stout hearts but feeble numbers into the midst of a hostile country. The uncertainty which hung over the public mind, and the anxiety every where felt, when our gallant little army disappeared from our view, will not be forgotten during the present generation. There was universal pause, of expectation—hoping, but still fearing; and the eyes of twenty millions of people were anxiously fixed upon another country which a little band of its armed citizens had invaded. A veil concealed them from our view. They were lost to us for fifty days; for that period elapsed, from the time when we heard of their departure from Puebla till accounts reached us of the issue of the movement. The shroud

which enveloped them gave way, and we discovered our glorious flag waving in the breezes of the capital, and the city itself invested by our army.

"If we recorded our history on stone, as was done in the primitive ages of the world, we should engrave this series of glorious deeds upon tables of marble. But we shall do better ; we shall engrave it upon our hearts, and we shall commit it to the custody of the press, whose monuments, frail and feeble as they appear, yet from their wonderful power of multiplication, are more enduring than brass or marble, than statues or pyramids, or the proudest monuments erected by human hands. Let it be remembered, sir, that these battles were fought in a great measure by new and undisciplined troops, hastily called at home, and speedily marched to the seat of warfare. By men who had abandoned the duties and comforts of domestic life, and who made war not a trade as in Europe, but a temporary employment in order to defend the interests and honor of their country. And even the small regular army, which existed at the commencement of the war, had seen little active service in the field, and that not with a civilized foe, but in murderous conflicts with Indian tribes, where there was much exposure to meet and little glory to gain. Many of the officers and soldiers, and indeed a great majority of them, and some of their commanders, too, saw the first gun fired in the very field which they illustrated by their deeds, and moistened with their blood, honor, then, to the highest and to the lowest, to the greatest and the least—honor to the living and the dead—those who survive to enjoy it, and to the memory of those who sleep in a soldier's grave, far from the land they loved so well. And happy am I to see upon this floor at this moment, particularly one of the gallant officers, who have inscribed their names high upon the military roll of their country, and there are others like him in this city, who have returned from the campaign in which they distinguished themselves, bearing upon their persons ineffaceable marks of courage and patriotism. A kind Providence has permitted them to come back, and the plaudit of grateful millions "well done good and faithful servants" is the proud welcome which greets them. Let modern philanthropists talk as they please, the instincts of nature are truer than the doctrines they preach. Military renown is one of the elements of national strength, as it is one of the proudest sources of gratification to every man who loves his country and desires to see her occupy a distinguished position, among the nations of the earth. I should have been proud to have been in Europe during our military operations in Mexico—proud to witness the effect of the skill and prowess of our army upon the statesman and politicians and communities of the old world."

When it is remembered that the American army was then three thousand miles from home, in the very citadel of the enemy, and surrounded by seven or eight millions of the inhabitants of the

country they had invaded, and who would gladly seize the first opportunity to massacre every one of them, it is difficult to conceive how any one can reasonably dissent from the position assumed by Gen. Cass, or consider him too urgent in asking the attention of the Senate to a subject involving such momentous consequences. Yet, the proposition met with powerful opposition from distinguished Senators, and the debate upon it was prolonged through a period of three months. The final vote was taken on the 17th of March, 1848, and the bill passed the Senate, the vote being twenty-nine in favor of its passage and nineteen against it. The origin of the war with Mexico, has been the subject of much difference of opinion; and as an authentic and reliable statement of its origin and commencement, the following extract from the speech of Gen. Cass, delivered March 17th, 1848, in the Senate, is here inserted :—

"But it has been said, not in Mexico, but here, that the origin of this war was not in the annexation of Texas, but because we carried her boundary to the Rio Grande, and took possession of the country between the Nueces and that river. Who says this, Mr. President? Not the government or people of Mexico, but citizens of our own country, who find a cause of offence for the enemy, which they have failed to discover for themselves. The Nueces is an American, not a Mexican boundary. The Texas of Mexico was Texas to the Sabine, with no intermediate boundary. In all the communications with the Mexican Government, as I have had occasion to say before, no distinction is made between the Nueces and the Rio Grande. And the occupation by our forces, of the country between these rivers, was never presented as an exclusive cause of complaint, nor indeed noticed in any matter whatever. It was the annexation and occupation of Texas, and not of any particular portion of Texas, which led to the reclamations, and finally to the hostilities of Mexico. It was a question of title, and not of boundary; a claim of right, which went for the whole, and would never be satisfied with the relinquishment of a part. When the act for annexation passed, the Mexican minister in this country immediately protested against that measure; declared it to be just cause of war, and at the same time demanded his passports, and left the country. And the supreme Government of Mexico, in March, 1846, informed Mr. Slidell, that it looked upon "annexation as a *casus belli;* and, as a consequence of this declaration, negotiation was, by its very nature, at an end, and war was the only recourse of the Mexican Government." And, in conformity with these views, forces were collected on the Rio Grande, in order that Mexico might take the "initiative" in hostilities against us, to borrow the expression of General Paredes in his orders to

the commanding general. And, sir, these warnings and threatenings were no vain declarations. Mexico said what she would do, and she did as she said. She declared to us, that if we annexed Texas she would go to war. We annexed Texas, and she went to war. As early as April, 1846, and before the movement of General Taylor could have been known in Mexico, her President directed the general upon the frontier to "attack" our army by every means, which war permits.

Who, then, sir, has a right to say, what the Mexican Government has never said—that they went to war, not because we annexed Texas, but because we took possession of the country west of the Nueces? In all the diplomatic correspondence between the two Governments, there is no allusion to that river, nor is any greater claim advanced to one of its banks, than to the other. Why, then, when our country is summoned to trial at the bar of the public opinion of the world, why should the American Senate swell the catalogue of an enemy's grievances, and make out a better case for Mexico than she has made for herself? In our endeavor to do right to others, let us not do wrong to ourselves. Let us distrust our own judgment, when we find ourselves inclined to take a more favorable view of the cause of Mexico, than she has taken for herself. Let us yield to justice what we refuse to patriotism. There is no want of shrewdness in Mexican statesmen. They have made the best of their own case; and if they have omitted the passage of the Nueces in the catalogue of their wrongs, we may be sure it was no special wrong in their eyes; and that it was not because we crossed that river, but because we entered Texas, that our enemy attacked us, and thus commenced the war.

What judgment, then, are we to pronounce upon the measures, which were directed to be taken by the President, previously to the commencement of the war by Mexico? This question is in fact a double one, involving two considerations: one, affecting our relations with other countries, and the other our own institutions only. The former touches our character and conduct before the nations of the earth, while the latter relates only to ourselves.

This war was commenced by Mexico, that is, Mexico first attacked our troops; but I agree, that if we pushed an armed force within the Mexican frontier without cause, that measure throws on us the guilt of this war. How stands this matter?

1. It seems now to be generally agreed on all hands, that the mere annexation of Texas gave to Mexico no just cause of war, and it follows, that if its boundaries extended to the Rio Grande, then we did only what we had a right to do in marching our forces to that river, and are not responsible for results. Both of these points I have noticed, and the last has been conclusively established by the excellent views taken of the title of Texas by the Senators, to whom I have referred.

2. If the title to the country from the Nueces to the Rio Grande was in dispute between the parties—and I believe no one here has

ventured to deny, that we had some well founded claims to it—and Mexico was preparing to take possession of it, we had a right to anticipate her, and thus to assert our own title.

3. But taking the strongest ground against ourselves, that we had no title whatever to the Rio Grande, still we had a right to go there, if we considered such a measure necessary to our defence, and if the preparations of Mexico announced a design to attack us.

Did they announce such a determination? No one here, sir, will deny that fact. I shall not detain the Senate with the various proofs, spread through the history of our intercommunication with Mexico, from the first suggestion respecting annexation, till her army crossed the Rio Grande in order of battle. The protest of her minister here—the declaration of her Government—its formal annunciation to the European diplomatic agents accredited to it—the public order of its generals, and the collection and movement of its forces, left no doubt of its designs, and if they had, the result would have disclosed them.

The movement of our troops, under these circumstances, became a defensive measure; for, as has been well remarked by the honorable Senator from South Carolina, [Mr. Butler,] it is not necessary for the justification of a nation, that it should await an impending attack. That power, in fact, commences the war, which makes the first threatening preparations for it, and not the one, which merely strikes the first stroke. If a government collects its forces, marches them to its frontier, and makes public preparations for passing it, and thus for war, at the same time openly avowing its determination to commence it, both the reason of mankind and the usage of nations, authorize the people, whose peace is thus threatened, to anticipate their adversary, and to repel the threatened attack, by an attack of their own. This course is strictly defensive, and modern history abounds with examples illustrative of the principle.

So much for the question between us and Mexico, as to the commencement of the war.

As to the internal question relating to the conduct of the President, it admits of but one answer. That cases may occur, in which it is his duty, under his constitutional power, to repel an actual or threatened invasion before Congress can act upon the subject, no one can doubt; and for myself, I could never see any just constitutional or legal objections to the course he pursued in this whole affair. But there is one other consideration, which is decisive, and that is, that the orders for the movement of the troops to the Rio Grande were given by the President on the 13th of January, 1846, and thirteen days before that, an act of Congress had been passed recognizing our jurisdiction west of the Nueces. It was the duty of the Executive to carry it into effect, and thus consider the boundary of Texas, as extended beyond that river.

As the "initiative" was taken by our adversary, we took the defensive, and the attack being inevitable, it was for us to choose where to receive it. Such, I repeat, is the law of nations, and such the practice of nations.

CHAPTER XIV.

APPROPRIATIONS for Improvement of Rivers and Harbors—Difficulties surrounding the question of the right of Congress to make such appropriations—Gen. Cass' opinions on that subject—He sustains the position of Gen. Jackson—Proceedings in the Senate—Remarks and Vote of Gen. Cass—Further remarks—Chicago Convention—Its object—Foresight of Gen. Cass in anticipating the results of that Convention—His letter declining an invitation to attend it—Unjust and unfounded inferences drawn from the letter—Gen. Cass' exposition of his views on the Constitutional right of Congress to make Appropriations for the Improvement of Rivers and Harbors, delivered in the Senate, March, 1851.

The subject of appropriating public money for the improvement of our North-western rivers and harbors is one which is of the first importance to a large and constantly increasing portion of the people of the United States. Unfortunately, owing to the variety of interests which the extent of our country has created, this question has become involved with other measures of public expenditure, not necessarily or naturally connected with it. The constitutional right of Congress to appropriate the money of the United States, for the improvement of our rivers and harbors on our lakes, has been designedly connected with the question of the right of that body to commence and prosecute a general system of internal improvement, so that those who are of the opinion that the constitutional right exists in the former case, while it does not in the latter, are compelled, by the peculiar mode of legislation which has obtained in regard to bills authorizing appropriations of public money for river and harbor improvements, to oppose the system entirely as it is presented to them. If the sole question were the expenditure of the amount, upon localities having a national position in the trade and commerce of the country, it is apprehended that there would be few who would oppose it. But when an expenditure, clearly right and proper, palpably authorized by the constitution, and national in its use, is so identified with and made dependent upon one just as clearly wrong and unauthorized as the other is right, that the one cannot be obtained without the other, the friends of the former are forced by constitutional obliga-

tions to oppose and resist the whole. For years past, this has been the condition of this deeply interesting question. In one or the other branch of Congress, illegal, unconstitutional provisions, directing the expenditure of large amounts of money, have been incorporated with appropriations intrinsically legal, and the democratic members of Congress have been reluctantly compelled to vote against the whole proposition, and when the majority was against them, trust to the Presidential veto, to correct the violation of the constitution and the lavish and profligate abuse of public money for local benefit.

It cannot be denied that there has always been an inclination with persons of a certain political stamp to give an extraordinarily liberal construction to the provisions of the constitution, especially on this point. Presidents Madison and Monroe found it necessary to interpose the veto upon profuse appropriations for works of internal improvements, claimed to be national in character, but, in fact, far otherwise. With the administration which succeeded Mr. Monroe's, this doctrine of the "largest liberty" in appropriating money for "internal improvements," found the utmost favor desired by its ardent friends. It required not a little firmness on the part of Gen. Jackson, to bring the construction of the constitution back to its original purity. But he succeeded in so doing, and the principles then re-established by him have become an article of faith and party policy with the democratic party of the Union. The position from which Gen. Jackson rescued the country, may be judged of from this one fact: At the time he refused his sanction to the act authorizing a subscription of stock in Maysville and Lexington Turnpike-road Company, there were propositions pending before Congress for the construction of roads, requiring an appropriation in the aggregate of one hundred millions of dollars. The prospect was appalling, but the constitution was under the care of one who respected it and the great people who entrusted it to him, and the country escaped the evils which the "internal improvement" party were preparing for it.

It has been charged upon Gen. Cass that he is opposed to appropriations by Congress for harbor and river improvements. This accusation, like others brought against him, is without foundation in truth. His career in the Senate of the United States; his de-

clarations of his opinions on questions of public policy; his speeches and votes, which are well known to the country, falsify the assertion. Gen. Cass supports the democratic creed on this question, as established by early precedent, and re-affirmed by Gen. Jackson and the Baltimore Conventions of 1844 and 1848, "that the Federal Government is one of limited powers, derived solely from the Constitution, and the grants of power shown therein, ought to be strictly construed by all the departments and agents of Government, and that it is inexpedient and dangerous to exercise doubtful constitutional powers."

"That the Constitution does *not* confer upon the General Government the power to *commence and carry on a* GENERAL system of internal improvements."

He does not deny the power of Congress to improve the great harbors and rivers, and lakes, of the Union, which are national in their character, and important to the commerce or defence of the country. While he denies the power to devise and prosecute a vast system of operations, whose pecuniary extent cannot be foreseen, or whose corrupting influence in and out of the halls of legislation, may well excite apprehension, he has advocated and voted for particular appropriations, justified by the position and importance of the location to be improved.

In a late speech delivered by Gen. Cass in the Senate, on the river and harbor bill, he uses this emphatic language: "With respect to harbor improvements upon the great lakes, in which my constituents feel a deep interest, I may be permitted, I trust, to make a few remarks. *It is the exercise of a power essential to the prosperity of the country, and necessary to prevent a prodigal waste of human life.*"

One instance is here given to prove by the record the position and action of Gen. Cass, in regard to this question. It is one of a character, which cannot be controverted, and must convince his most inveterate opponent, that he is not opposed to the judicious and constitutional appropriation of money for river and harbor improvement. The following account of the proceedings in the Senate in July, 1846, is taken from the Congressional Globe, and its accuracy will not be questioned:

"Mr. Dix moved to take up the river and harbor bill.

"Mr. Bagby objected. He was opposed to the bill in principle, and with a view to record his vote, asked for the yeas and nays on the question, and they were ordered.

"Mr. Dix stated that this was a bill of the House of Representatives, which had been referred to the committee on commerce, and made appropriations for works now in progress. It had been awaiting the action of the Senate a long time, but had been deferred in consequence of the war measures. He hoped it would be taken up.

"The yeas and nays were taken on the question, and stood yeas thirty-seven, nays fourteen, GEN. CASS VOTING IN THE AFFIRMATIVE.

"The Senate took up the bill, and as in committee of the whole, proceeded to the consideration of the amendments reported by the committee on commerce.

"After a desultory and conversational debate, two of the amendments were adopted; and the further consideration of the bill was postponed until to-morrow.

"July 21—On motion of Mr. Dix, the Senate resumed the consideration of the river and harbor appropriation bill.

Mr. Atchinson moved the reconsideration of the vote by which the following clause was stricken out:

"For the improvement of Little Fort Harbor on Lake Michigan, $12,000.

Upon this motion discussion ensued.

Mr. Cass *advocated the appropriation. He argued for it on the ground* of expediency and CONSTITUTIONAL RIGHT. He denied that they were legislating for mere local views. *It was the duty of Congress to legislate with a regard to local as well as general interests.* He contrasted the importance of harbors on the lakes with the rivers. On the Mississippi and great western rivers, every species of craft could land at any point. But on the lakes, the God of nature had imposed the most formidable difficulties. He himself was once shipwrecked near the town of Cleveland, and saved his life at imminent hazard. He alluded to the commerce of the lakes.—Last year the number of vessels of all kinds navigating the lakes was four hundred and ninety-five, and thirty were building. Thirty-six vessels had been driven ashore—twenty total wrecks, and four had foundered.

The vote was reconsidered, yeas 32, noes 19. Gen. Cass voting for the re-consideration. The further consideration of the bill was postponed."

"July 23—Mr. Dix moved that the Senate resume the consideration of the River and Harbor appropriation bill.

Mr. Atherton offered an amendment: Provided that no *money* shall be drawn from the treasury *on account of any appropriation contained in this Act,* unless the revenues of the government shall be sufficient to pay the current expenses of the year without resorting to treasury notes or loans.

On the amendment, Mr. Atherton demanded the ayes and noes, which being called, the amendment was lost—ayes 18, noes 33." Gen. Cass voting in the negative.

After offering and discussing various amendments, upon which Gen. Cass invariably voted to sustain the bill, the question was taken upon ordering the bill to a third reading—which was done, ayes 34, noes 16. Gen. Cass voting in the affirmative.

The bill was then by unanimous consent read a third time and passed. Gen. Cass voting for the passage of the bill.

Here then it is established by indisputable evidence, that Gen. Cass has *advocated* in his speeches and supported by his votes, *appropriations by Congress for the improvement of our Rivers and Harbors.* And it will be borne in mind that he *voted against* Mr. Atherton's amendment, which was intended to, and would if adopted, defeat the operation of the bill.

In further illustration of the construction held by Gen. Cass, as to the constitutional power of Congress to make grants for specific improvements, where the benefit will accrue to the country in general, the following extracts are taken from his remarks in the Senate, April 29th, 1846, in support of the bill to grant alternate sections of public land to the State of Michigan, to complete certain works of internal improvement. Upon the point of constitutional right, he said :—

"As to the question of constitutionality raised by the Senator, [Mr. Niles, of Connecticut,] it has no application here. It will be recollected that the Government of the United States has double functions to perform. By the constitution it manages the external concerns of the country, and those internal concerns which naturally arise out of the relations which the States bear to one another. The General and the State Governments are kept distinct and independent of each other. And in the practical exposition of the power of Congress, it ought to become a fundamental principle, that a strict construction shall be adopted, so that no authority not clearly granted, or not actually necessary to carry clearly expressed powers into effect, shall be assumed by it. And here lies the difficulty which has always been felt in the exercise of certain functions by Congress which interfere with the State sovereignties ; and which are not among the express powers enumerated in the Constitution, such as the making roads, &c. But the General Government possesses another function besides that of special law making. It is a great land-owner, holding and having held more than one-half of the Union, and expressly empowered by the Constitution to dispose of and make all needful rules and regulations respecting the territory or other property belonging

to the United States. Here is an unlimited authority enabling Congress to take any course it thinks proper concerning the public lands. While the jurisdiction as well as the title is in the United States, this power is unlimited. After the establishment, however, of State Governments, the ordinary jurisdiction passes to the State authorities, and the power of Congress ceases as a law-maker, except in those cases provided for by the Constitution; and in other cases it retains only its power as a land-owner. It has got the authority to make all needful rules and regulations for the disposition of its property, and to dispose of it just as it pleases, restrained only by a wholesome discretion. And our statute books are filled with legislation upon this subject.

* * * * *

Let us not be told, as we have been told, that it is not for the Government to take any measures to encourage the progress of settlement. What would this country now be, if the Alleghany bounded the Republic? What would be its prospects, if an interdict were laid upon the further advance of its citizens? How long before the scenes which afflict humanity in the old world, and every day threaten its repose, would be transferred here? How long before a dense population would be seen seeking uncertain employment, and would find a scanty subsistence, and that not without the aid of public bounty, barely sufficient to prevent starvation? When the population of a country is surrounded by such circumstances, the evil becomes a social and not a political one—incurable, without an entire reorganization of society. Strong minds, pressed down by adverse difficulties, make themselves felt in efforts directed against the Government. The acquisition of property is utterly beyond the reach of the great masses. Life holds out no hope of a comfortable support in its decline. Here strong minds and strong passions may receive a different and safe direction. They have no reason to wage war against social or political systems. A moderate share of industry will give to every man a farm, on which he can sit down and surround himself with his family. Land-owners, as a class, are unknown in this country. We are all stimulated by the hope of those rewards which are within the reach of all. Our extensive domain invites enterprising young men to occupy and improve it. Instead of being shut up in cities, and employed in manufactories, and witnessing the scenes which such a state of things bring with them in Europe, and may eventually bring with them here, they seek new homes in the West, acquire land, and have thus a most permanent interest in the prosperity of the country.

Mr. C. said that, in his opinion, one of the first elements in the safety and stability of our institutions was this very power of emigration and settlement. Many a strong mind, which might excite difficulties if kept down by adverse circumstances in the midst of a dense population, finds free scope for enterprise and exertion in the vast domains of the West. And for long generations to come,

whilst this outlet is open, and these rewards thus held out, he believed we had nothing to fear for the permanency of our institutions. Mr. C. did not consider it necessary to advert to other considerations connected with the growth and progress of our Republic. These are sufficiently obvious, and find sufficient response in every American heart.

Upon a more recent occasion, and just prior to the meeting of the Baltimore Convention of 1848, before which it was well understood that Gen. Cass would be a candidate, he advocated and voted for a grant to the State of Illinois, of the right of way, and a donation of public lands for making a Railroad connecting the upper and lower Mississippi with the chain of northern lakes at Chicago. Advocating the bill in the Senate, he said :—

"As I intend to vote for this bill, I wish to say a very few words in regard to it. The subject has been often before the Senate; and the Senator from Connecticut, [Mr. NILES,] has as often reiterated his scruples, taking the same ground that he has taken today, and carefully avoiding the grounds upon which the bill rests. This bill does not touch the question of internal improvement at all. It asserts no right on the part of this government to lay out a road, or to regulate the construction of a road. The federal government is a great land-holder; it possesses an extensive public domain; and we have the power, under the constitution, to dispose of that domain; and a very unlimited power it is. The simple question is, what disposition we may make of the public lands? No one will contend for the doctrine that we cannot give them away to a State. As the senator from Kentucky has said, every President has signed bills asserting the principle that these lands may be disposed of by the general government, without restriction as to the purpose of such disposition. We may bestow them for school purposes, or we may bestow a portion for the purpose of improving the value of the rest. What right have you to sit still and see your lands growing in value, through the instrumentality of individuals, without rendering any aid in furtherance of that object? It is the settlement of the lands that makes them valuable. It is the settler who converts the howling wilderness into fruitful fields. It is the labor and enterprise of the settler that has given you in the west a magnificent empire, and one which has arisen within so brief a period that it is almost incomprehensible. When I told the story in Europe that I had crossed the Ohio when there were scarcely twenty thousand people in that country, and that it now contained five millions, they did not laugh in my face, to be sure, but they did not believe what I said. There is no parallel in the history of man—no such splendid tribute to human industry and enterprise—since the first man went out of the garden of Eden.. It is not twenty-five years ago that I sat all night in a

canoe at the head of the pond at Chicago, there being no human habitation in which we could obtain shelter from the mouth of the Illinois to the mouth of the Chicago river; and now it is one of the great highways of travel between the northern lakes and the ocean. Sir, I hope the gentleman will put this upon its true ground, leaving out the constitutional question, and taking alone into consideration what is your duty as land-holders in a new country—a country, too, which must derive its improvement from the industry and enterprise of your own population, where every stroke of the woodman's axe redounds to your advantage. The man who sits down with his family in the wilderness to make for himself a home, evinces more moral courage than the man who goes into battle. No man who has not experienced the difficulties and dangers he has to encounter, can estimate them. I appeal to the senator from Connecticut to look at it in this point of view. He is from an old country, where such improvements have been ready made to his hands by his great-great-grand-father. Roads have been made and bridges built for his accommodation; but he must recollect that his cotemporaries, his friends around him, his children, perhaps, are going into this new country, and enduring privations to make that valuable which was not so before."

Much of the misrepresentation of Gen. Cass' views on this question, is the result of studied and designed purpose on the part of his political opponents. There are persons so entirely inimical to any measure which receives the sanction of the democratic party, that they oppose what their better judgment convinces them to be right. From a feeling of this kind, an attempt was made in 1847 to commit the people of the West, living on the borders of the rivers and lakes, to a disavowal of the doctrines of the democratic conventions, on the right of Congress to prosecute internal improvements. For this purpose a convention of persons from all parts of the Union, was called and held at the city of Chicago, in Illinois, in July, 1847. The delegates to this convention, were self-appointed, and it was of course numerously attended. The ultimate object of the convention was, to bring into disrepute the practice of the democratic party, by procuring a vote of disapproval in the convention, which would have the appearance of being sustained by a portion at least of the democratic party. The distinguished men of all parties were invited to be present, by a committee of arrangements. To these invitations, answers in writing were returned. A number of the most eminent whig leaders, discussed the question at length, in their replies. Before the con-

vention met, the intentions of those who were most active in calling it, became manifest; and numbers of democrats, friendly to the ostensible object of the convention, declined participating, when they learned the real purpose for which it was projected. It is true that the convention did not assume an entire party character, but that was owing more to the firm resistance of the democrats, who were there, than to the wishes or intentions of the chief movers in the affair.

With other distinguished men, Gen. Cass was invited to attend the convention. In addition to prior engagements, preventing his acceptance, he declined being present, because it was his opinion that the object of it was political, and entirely incompatible with his views and practice, and that its labors would not effect any benefit. He considered that no useful plan of action could be devised or adopted by a large assemblage, among whom great differences of opinion existed, in a time of great political excitement, gathered from all sections of the Union without limitation as to numbers, and possessing no degree of responsibility for the wisdom or futility of the plans it might propose.

Gen. Cass, in a brief letter to the gentleman who invited him, informed him of his inability to attend. This letter, subsequently, formed the text for a vast amount of political *badinage* and wit, as well as of serious argument in opposition to Gen. Cass. Perhaps no four lines were ever written, which have been the subject of so much perversion. It was circulated in every possible shape, from one end of the Union to the other, during the Presidential campaign of 1848, as an evidence of the hostility of Gen. Cass to harbor and river improvements. The letter does not contain one syllable on the subject, and any inference of opinion, founded upon it, is unfounded and unwarranted. There was no occasion for an expression of opinion, nor was one made. A man less scrupulous about obtruding his personal sentiments upon the public, than Gen. Cass, might have seized upon the opportunity of avowing unasked, his private views; but such an answer, to a simple invitation to attend a public meeting, it must be admitted, would be in bad taste. The letter itself, which follows, shows to what extent, partizan zeal, can misrepresent the plainest and most intelligible statement:—

DETROIT, May 17th.

Dear Sir,—I am much obliged to you for your kind attention in transmitting me an invitation to attend the Convention on internal improvements which will meet in Chicago in July. Circumstances, however, will put it out of my power to be present at that time. I am, dear sir,

Respectfully yours,
LEWIS CASS.

That there may be no misconception of the views of General Cass on this great question, the following extracts are inserted from his speech, delivered in the Senate at the close of the session of Congress, in March, 1851, on the River and Harbor Bill:

Mr. CASS said:

Mr. PRESIDENT:—As there is not as much noise and confusion here as I found elsewhere upon a certain memorable occasion, the important circumstances of which have passed into history, I trust I shall meet with no difficulty in the expression of my views upon this occasion. I do not propose to touch the constitutional question involving the powers of the General Government in relation to the objects of this bill. I shall content myself with quoting an authority, which expresses my sentiments upon the subject better than I could do it myself. I have been challenged by an administration journal in this city to come out with my real views—not by the National Intelligencer, which is a paper conducted with equal taste and talent, and whose editors possess characteristics which command the respect and regard of all who know them—but I repeat, I have been challenged to disclose my real views, as though I had heretofore carefully concealed them until this time. I have never concealed them, sir, either by writing my far-famed letter to the Chicago Convention, or by declining to enter into the discussion of political subjects at Cleveland. As to the letter, the comments upon which constituted the smallest game, that was ever played by a great party, but little is necessary to be said. I was asked to attend the Chicago Convention, and that was all I was asked. I said I should not go, and that was all I said: and this direct and laconic answer has been made the foundation of a thousand misrepresentations, as though a refusal to attend that meeting were the adverse expression of my opinion upon a great constitutional question. Now, sir, I did notgo for two reasons: first, because I believed, and yet believe, that many, not all, indeed, of those who were concerned in this scheme, got it up for the purpose of injuring Mr. Polk and the Democratic party; and secondly, because I did not think, that the assemblage of politicians from large districts of country to devise plans for extensive improvements of this nature, where there is no true responsibility, and where a result is too often obtained by mutual arrangement and bargain, would do any good. And so it proved, for who has seen

the first beneficial consequence follow from that Convention? So much for my Chicago letter.

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Now, sir, if there are any public men, who above almost all others, could neither deny nor conceal their opinions upon this whole subject, I may claim to be one of them. During the Administration of General Jackson, I was at the head of the War Department, between five and six years, and am responsible for all the estimates sent to Congress, and upon which the several acts of appropriation for river and harbor improvements were based; and for the two sessions of the Senate, since I have been a member, during which bills have passed for these objects, I have advocated and voted for them, and stated fully and repeatedly, as I do now, the principles of my action. Who but the veriest tool of party, and for the worst purpose, could represent me, under these circumstances, as endeavoring to conceal my views, or to deceive the country, as to their extent or limitation? The bird of the desert, that hides its head in the sand, and strives thus to elude observation, would be the very emblem of wisdom, when compared with the efforts thus charitably attributed to me.

Now, sir, what are my views? And to this plain question, I shall give an answer equally plain. They are to be found in the paper I hold in my hand, being an extract from the annual message of General Jackson of 1834. I was at that time a member of his Cabinet, and was consulted by him in relation to this exposition of his opinions, and I concurred in them then, and have preserved my fealty till this day:

"There is another class of appropriations for what may be called, without impropriety, internal improvements, which have always been regarded as standing upon different grounds from those to which I have referred. I allude to such as have for their object the improvement of our harbors, the removal of partial and temporary obstructions in our navigable rivers, for the facility and security of our foreign commerce. The grounds upon which I distinguished appropriations of this character from others have been stated to Congress. I will now only add, that at the first session of Congress under the new Constitution, it was provided by law, that all expenses which should accrue from and after the 15th day of August, 1789, in the necessary support and maintenance and repairs of all light-houses, beacons, buoys, and public piers, erected, placed, or sunk, before the passage of the act, within any bay, inlet, harbor, or port of the United States, for rendering the navigation thereof easy and safe, should be defrayed out of the Treasury of the United States; and further, that it be the duty of the Secretary of the Treasury to provide by contracts, with the approbation of the President, for rebuilding when necessary and keeping in good repair the light-houses, beacons, buoys, and public piers, in the several States, and for furnishing them with supplies.

Appropriations for similar objects have been continued from that

time to the present without interruption or dispute. As a natural consequence of the increase and extension of our foreign commerce, ports of entry and delivery have been multiplied and established, not only upon our sea-board, but in the interior of our country, upon our lakes and navigable rivers. The convenience and safety of this commerce have led to the gradual extension of these expenditures; to the erection of light-houses, the placing, planting and sinking of buoys, beacons, and piers, and to the removal of partial and temporary obstructions in our navigable rivers, and the harbors upon our great lakes, as well as on the sea-board."

I repeat, sir, this succinct exposition contains the principles of my opinions and action. I do not pretend, nor did General Jackson, that no doubt can arise in their practical application. That would be a condition, not compatible with the imperfection of human language. Uncertainty enters, more or less, into all the departments of legislation, and, perhaps, into none more inevitably, than the great branches of public expenditure. Constitutions cannot establish regulations, as rigid as a mathematical problem, nor is there a solid wall of masonry, to which the legislator can go in all cases, and find himself warned, by coming in contact with it, that he is at the boundary of his authority, and can proceed no further. A liability to abuse power is inseparable from the grant of it, and all the cautious statesman can do is to prevent this, as far as possible, by fencing round the depositaries of authority with such checks and limitations as, without destroying the object, may tend to render its attainment the safer. General Jackson endeavored to do this by adopting as a rule for himself, not to sanction appropriations for river improvements, above the highest ports of entry. He thus states, in the same message, his views upon this branch of the subject:

"Although I have expressed to Congress my apprehension that these expenditures have sometimes been extravagant and disproportionate to the advantages to be derived from them, I have not felt it to be my duty to refuse my assent to bills containing them, and have contented myself to follow, in this respect, in the footsteps of all my predecessors. Sensible, however, from experience and observation, of the great abuse to which the unrestricted exercise of authority by Congress was exposed, I have prescribed a limitation for the government of my own conduct, by which expenditures of this character are confined to places below the ports of entry or delivery established by law. I am very sensible, that this restriction is not as satisfactory as could be desired, and that much embarrassment may be caused by the Executive Department in its execution, by appropiations for remote and not well understood objects. But as neither my own reflections nor the lights I may properly derive from other sources, have supplied me with a better, I shall continue to apply my best exertions to a faithful application of the rules, upon which it is founded."

It will be seenthat the limitation he lays down is not a constitu-

tional one, but was adopted for his own personal guidance, to guard the more certainly the public interest.

Another eminent statesman, lately in the midst of us, but whose brilliant career has recently terminated in death, equally to the regret of his friends, who admired him, and of his country, whom he served, with as pure a devotion as ever inspired a human breast, and whose mighty intellect and spotless integrity none questioned or doubted, he, also, gave us his views upon this general subject, and very elaborately, in his celebrated report on the memorial of the Memphis Convention. He concedes fully the right of harbor and river improvements, as that document shows, and a short extract from it will put us in possession of his general sentiments.

"Having now shown that the power to raise money and to appropriate and expend it is confined to carrying into execution the delegated powers, it remains to be considered whether there is any power delegated to the Federal Government, the carrying of which into execution would authorize appropriations and expenditures for the improvement of the navigation of the Mississippi and its waters?"

"But there is not the least probability," continues Mr. Calhoun, "that Congress will ever abandon the exercise of this power, (the power to improve rivers and harbors.) It has not only the right, as has been shown, but it is its duty to exercise it; a duty, under the Constitution, to the States immediately interested, and which are, by one of its provisions, prohibited from adopting the only means by which they could themselves regulate their commerce with each other."

Mr. Calhoun also sought a practical limitation to this power to improve rivers, for with respect to harbors, he left it wholly to legislative discretion; but he sought it, not in self-imposed restrictions, but in the Constitution itself, independent of the power to regulate commerce, which, in my opinion, is the only true foundation, as it is also the only actual limitation of this power. I shall not enter into an examination of this State paper, marked with the powerful characteristics of the author; nor could I do so, without injustice, for it is some years since I examined it with care. I will only remark, that it denied the power to Congress to improve rivers, running through one State, or running through or bounded by two States, on the ground, that in the former case the State itself is competent to improve them, without any other action than its own; and in the latter case, that two States interested may, with the sanction of Congress, enter into a convention for their improvement. But that a river penetrating more than two States cannot be improved by joint action, as there are no means to obtain it under the Constitution, and must be improved by the General Government. It is obvious, that this rule has no relation to the size or importance of the river, but to political considerations, wholly independent of its magnitude or value.

It places in the same category the Connecticut and the Mississip-

pi, while it excludes other rivers vastly exceeding the former in every utilitarian point of view, some of which are among the greatest of our commercial arteries. Without pursuing this view, however, I will content myself with remarking, that the error of this construction seems to me to be this, that it assumes, that the improvement of rivers must take place, and that where it cannot be effected by the States themselves, it may and must be done by the United States. It strikes me, that such a view is irreconcilable with the fundamental principles of our Government. It would make the General Government a kind of residuary legatee, having a reversionary right to all power, not otherwise disposed of. The reverse, I take it, is the true and settled doctrine—that to the States and the people belong all the powers, not granted by the Constitution. If a power is not found there, however necessary it may be, it cannot be assumed by Congress. Were there no authority to declare war, maintain an army, or to equip a navy, these acts could not be done, whatever pressing emergency might arise, till the necessary authority were granted. I repeat, that it is some time since I looked over this document with care, and I can therefore only state the general impression, it left upon my mind.

Now, sir, the honorable Senator from South Carolina [Mr. Butler] has referred, rather triumphantly, I thought, to the resolutions of the Baltimere convention, and seems to suppose, that their faithful observance would prevent those of us, who acknowledge their obligations, from voting for any river and harbor bill. Mr. President, for one, I see neither difficulty in the case, not inconsistency in the course. This resolution, disavowing the right to establish a general system of internal improvements—for that is the doctrine reproved—was first presented to the Democratic party by that able and incorruptible statesman, Silas Wright, whose memory is embalmed in the heart of every true democrat. Well, sir, he, its acknowledged father, held at the time he urged it, and continued to hold till his lamented death, the same opinions upon this subject, which are now sanctioned by the Democratic party, and which authorize these appropriations for certain national objects. Can a doubt rest upon the mind of any man, fairly disposed, respecting the construction he put upon his own declaration? What he meant, and what the democratic party mean to repudiate, is the power to spread a great system of public works through the whole country, embracing roads, canals, rivers and harbors, and ponds, too, for aught I know—a system by which the Union was to be covered with roads and canals, as by a net-work, and whose consequences as well financially, in the enormous expenditure it would entail, as morally and politically, by the corruptions it would lead to, no man can seriously contemplate without alarm.

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With respect to harbor improvements upon the great lakes, in which my constituents feel a deep interest, I may be permitted, I trust, to make a few remarks. It is the exercise of a power essen-

tial to the prosperity of the country, and necessary to prevent a prodigal waste of human life. When I first removed to that region, there was but one natural harbor free from a bar between the mouth of the Detroit river and Black Rock, the whole extent of Lake Erie, and that was at Put-in-Bay Island. How this great defect was to be remedied was a subject of anxious inquiry ; for almost every day demonstrated, both the danger and the difficulty of the navigation. I have never been exposed to more peril, than at Cleveland, where I was driven ashore, and narrowly escaped with my life; the mouth of the river being entirely closed. At length the plan of building piers was suggested and adopted, by which the current of the rivers, being confined within narrow limits, they were thus enabled, when high, to sweep away the bars, and so to create and preserve navigable channels. Experience soon came in aid of the system, and it is now found effectual for its objects It must be recollected, that storms arise violently and suddenly upon those great fresh-water seas ; and as there is not sea room, as sailors say, to work a vessel off, she must often perish with cargo and crew, unless there is a harbor uear, in which she can take refuge. And these circumstances render a greater number of ports necessary, than would otherwise be required. But as it is, and with all the improvements, which have taken place, the statistics of the lake commerce for 1850 exhibit a most lamentable loss of life and property, as the following abstract will show :

Loss of life	395
Loss of property	$558,000
Number of vessels lost	32

The value of the property and number of persons running this risk are stated as follows :

Value of the commerce	$191,000,000
Passengers	355,000
American tonnage	167,000

Here, sir, is an exhibit of danger great enough to awaken the solicitude and command the active attention of the most careless legislature. I can never surrender a principle, which enables the government to discharge a sacred duty, dear to all my constituents; and I should faithlessly discharge my obligations to them, (and those obligations are many and great,) if I did not use all my efforts to have this trust fulfilled by the general government, so far as I can consistently with the constitution and the true principles, of sound legislation. * * * * *

CHAPTER XV

Gen. Cass' sympathy for the patriots of the old world—His readiness to welcome them to the United States—His participation with the Citizens of Washington, in expressing their congratulations at the success of the people of France in the late Revolution—Extract from his remarks on that occasion—His vote in the Senate on the resolution of congratulation—His resolution to suspend diplomatic intercourse with Austria—His remarks on the Bill offering aid to Ireland—His vote on the Bill—He supports the Bill authorizing the temporary occupation of Yucatan.

The oppressed inhabitants of the tyrannous governments of the old world have ever received from Gen. Cass his warmest sympathies and friendly exertions in their behalf. Willing to see the blessings of liberty, of free institutions and of civil and religious freedom enjoyed by all his fellow men, he has boldly stood forth, when others hesitated, and held out the hand of fellowship to the exile. Tyranny, in any form, whether it binds the body in manacles or closes the free utterance of the minds' thoughts, finds in him an uncompromising opponent. A witness of the sufferings, the wrongs and injustice borne by the king-ridden countries of Europe, where the people are but mechanical puppets, yielding obedience to the will of their monarchs, and kept in submission only by the physical force of standing armies, he could well understand how grateful to the fugitive to this asylum for the oppressed, is the word of welcome and the hand of friendly greeting; and when occasion offered no one has been more prompt to give public manifestations of that glorious impulse which would extend the area of freedom or render assistance to those struggling to obtain their rights and free themselves from the bondage of flagitious despotism. Let the shouts for freedom be heard in any quarter of the Old World, and he stands ready to send back its echoes from the New—to send to the brave patriots of other lands, the sympathies and encouragement of twenty millions of American freemen.

When the tidings reached this country of the late revolution in France, of the overthrow of the dynasty of Louis Phillippe, after the

struggles of eighteen years to build it up, he met with the citizens of Washington to rejoice in the success which hurled from power the ambitious and grasping Citizen King, and restored to the possession of the masses their rightful sovereignty. He addressed the meeting on that occasion, taking a brief review of the conditions of the European governments—the efforts of the people to establish their freedom and assume their proper part in adopting for their own governance a system founded on equality and justice, and in such form as would most surely ensure their safety and happiness. He traced the revolutions of the continent to their sources, to the abuses and oppressions which, for centuries, had been engrafting themselves upon those governments. The origin of the late movements in favor of liberty, he traced to the avowal by the present Pope, of his attachment to free principles. "One of the strangest events," said Gen. Cass, in the course of his remarks, "in this day of great events, is the origin of these movements in favor of liberty upon the continent of Europe. Whence came they? From the Eternal city—from the head of the Catholic religion—the successor of St. Peter. Immediately on his elevation to the Pontificate, the Pope avowed his attachment to free principles, and from the Vatican went out the decree, which is now spreading through the earth. The Pontiff, who holds the keys of St. Peter, has found a key to unlock the recesses of the human heart. His moral courage was but the more tried by the difficulties of his position. The abuses of the government were the work of ages, and had entered into all the habits of life and the ramifications of society; and he was surrounded by despotic governments, jealous of the first aspirations of liberty, and maintaining their sway by powerful armies. The Austrian, too, with his Pandours and his Croats from the banks of the Danube, had descended the ridges of the Alps, and had spread himself over the sunny plains of Italy. Almost in sight of the dome of St. Peter's, he watched, with interest and with many a threatening word, the progress of the Pope. But the work went on. Naples is in a state of revolution; Tuscany and Sardinia in a state of reform; and France of apparently peaceful progress in the new career opened to her."

He also supported and voted for the resolution, tendering the congratulations of Congress, in the name and behalf of the Ameri-

can people, to the people of France, upon the success of their efforts to consolidate the principles of liberty in a republican form of government.

It was from the same desire to spread free principles and encourage the reformers of Europe, that Gen. Cass supported the proposition to send a Minister to the Papal States. Circumstances had occurred which contributed to awaken an interest in the political condition of the Pope's dominions. England, too, was discussing the propriety of having an acknowledged representative at the Papal court. The United States had commercial relations with that government, and many of her citizens were residents within the jurisdiction of the Pope. For the protection of these interests, Gen. Cass argued that policy and wisdom required that our government should have a representative there also.

The struggles of the brave Hungarians, to resist Austrian aggressions upon their constitutional rights—the unfortunate result of those efforts—and the cruelties and barbarities of the Austrian tyrants, when treachery had given them the power to torture and murder their victims, had awakened throughout Christendom the commisseration of civilized nations for the one, and indignation against the other. To Gen. Cass the opportunity seemed a meet one, to offer by one strong act of national legislation, the condolence of a great people to the oppressed, and an expression of their indignation towards the oppressor. Accordingly, on the 24th of December, 1849, he introduced in the Senate, a resolution instructing the committee on foreign relations to inquire into the expediency of suspending diplomatic relations with Austria. This resolution he advocated in an eloquent speech, setting forth the reasons why he proposed such a measure. It was for the purpose of rebuking, by public opinion expressed through an established government, in the name of a great republic, atrocious acts of despotism, by which human liberty and life had been sacrificed, under circumstances of audacious contempt for the rights of mankind and the sentiments of the civilized world, without a parallel even in this age of warfare between the oppressors and the oppressed; that the government of the United States might reflect the true sentiments of the people, and express its sympathy for struggling millions, seeking, in circumstances of peril and oppression,

that liberty which was given to them by God, but wrested from them by man. The effect of such an expression, is beautifully and powerfully portrayed in the following extract from his speech, in support of the resolution. He said:—

"Here is an empire of freemen, separated by the broad Atlantic from the contests of force and opinion, which seem to succeed each other like the waves of the ocean in the mighty changes going on in Europe—twenty millions of people enjoying a measure of prosperity which God, in his providence, has granted to no other nation of the earth. With no interest to warp their judgment; with neither prejudice nor animosity to excite them; and with a public opinion as free as the air they breathe, they can survey these events as dispassionately as is compatible with that natural sympathy for the oppressed which is implanted in the human breast. Think you not, sir, that their voice, sent from these distant shores, would cheer the unfortunate onward in their work—would encourage them while bearing their evils to bear them bravely as men who hope—and when driven to resist by a pressure no longer to be borne, to exert themselves as men who peril all upon the effort? But where no demonstration of interest on the part of a government is called for by circumstances, a sound public opinion is ready to proclaim its sentiments, and no reserve is imposed upon their expression. It is common to this country, and to every country where liberal institutions prevail, and it is as powerful and as powerfully exerted in France and in England as in the United States. Its effects may not be immediately visible. But they are sure to come, and to come in power. Its voice is louder than the booming of cannon; and it is heard on the very confines of civilization. Our declaration of independence has laid the foundation of mightier changes in the world than any event since the spirit of the Crusades precipitated Europe upon Asia with zealous but mistaken views of religious duty."

For the suffering sons of Ireland, Gen. Cass has publicly evinced, on several occasions, his warm friendship and sympathy. When famine and disease were decimating that unhappy country; when her noble hearted people had no bread, no resources, but to lay down and die from the cravings of hunger, he came to their aid with his eloquence and influence in the Senate of the United States,

and secured the adoption, by that body, of a bill authorizing the President to cause to be purchased such provisions as he might deem suitable and proper, and to cause the same to be transported and tendered, in the name of the government of the United States to that of Great Britain, for the relief of the people of Ireland and Scotland, suffering from the great calamity of scarcity and famine; and also authorizing the President, at his discretion, to employ any of the public ships of the United States for the transportation of the provisions to be purchased as aforesaid; and appropriating the sum of five hundred thousand dollars to carry into effect the provisions of the bill. Although Gen. Gass was aware that many of his political friends in the Senate, had doubts as to constitutional power of Congress to pass such a bill, he gave it his unqualified support. The following brief extract will show how deeply he felt for the sufferings of Ireland's oppressed children—her strong claims upon the sympathy of the United States—the advantages we have enjoyed by the immigration of her industrious, free-hearted sons, who have added to our numbers, and increased the elements of our power and prosperity. Mr. Cass said:—

"As one member of this body, I feel obliged to the senator from Kentucky for the motion he has submitted, and for the appropriate remarks with which he introduced it. He has expressed my sentiments but with an eloquence peculiarly his own. While physical want is unknown in our own country, the angel of death is stryking down the famishing population of Europe, and especially the suffering people of Ireland. The accounts which reach us from that country, indicate a state of distress, in extent and degree, far exceeding any previous experience in modern times. It is a case beyond the reach of private charity. Its fountains are drying up before the magnitude of the evil. It is a national calamity, and calls for national contribution. The starving millions have no Egypt "where they can go and buy corn, that they may live and not die." From our granary of abundance let us pour forth supplies. Ireland has strong claims upon the sympathy of the United States. There are few of our citizens who have not Irish blood in their veins. That country has sent out a large portion of the emigrants who have added numbers to our population, industry and enterprise to our capital, and the other elements of

power and prosperity which are doing that mighty work from the Atlantic to the Pacific, that is already exciting the admiration of the Old World, and will stimulate by its example the exertion of the New. Our population of Irish descent have fought the battles of the country with as much zeal and bravery as any class of citizens; and from the heights of Abraham, where Montgomery fell, to the walls of Monterey, their blood has been poured out like water in defense of liberty.

"We can now send to Ireland, not indeed what she has sent us, her children—those we cannot part with—but food for their relatives, our friends upon whom the hand of God is heavily laid. In a petition presented yesterday by the senator from New-York, was a suggestion which I am gratified to find embodied in the bill reported by the Senator from Kentucky, and which I should be happy to see carried into effect: to employ in the transportation of provisions such of the armed ships of the United States as are not required for the operations of the war. It would be a beautiful tribute to the advancing spirit of the age. The messenger of death would thus become a messenger of life; the agents of destruction agents of preservation; and our eagle, which has flown above them, and carried our arms to the very coast of Ireland, would then become the signal of hope, where it has been the signal of defiance. I shall lend the bill my support with pleasure."

The debate on the bill was continued after Gen. Cass concluded his remarks, and Mr. Mason, of Virginia, moved to change its character, so as to make it authorize the free transportation of food to Ireland in national vessels, instead of being a direct grant of money for the purchase and transportation of provisions. Gen. Cass voted against this amendment, moved by his political friend; and thus showed his preference that the measure should remain a direct grant of money for relief purposes. Then came the final vote upon the bill, and on the 27th February, 1847, Gen. Cass voted for its passage, as he declared that he should do when it was first brought before the Senate.

Gen. Cass also supported the bill to enable the President of the United States to take temporary military possession of Yucatan. The executive and legislative departments of that government having sought the protection of the United States, from the attacks

of the Indian inhabitants of Yucatan, upon them, Gen. Cass was in favor of the proposition, both for reasons of humanity and public policy. Yucatan had also sought the interposition of both England and Spain; and the question of interference on the part of the United States, was closely connected with its policy in regard to permitting any foreign government to plant its standard on this continent. On these grounds, Gen. Cass sustained the bill.

CHAPTER XVI.

Course of General Cass in the Senate meets with approval from the people—Convention at Baltimore in 1848—Hunkers and Barnburners—Votes in Convention—Gen. Cass nominated for the Presidency—Remarks of Mr. Stevenson President of the Convention—Gen. Cass' letter of acceptance—Baltimore Resolutions—Gen. Cass resigns his seat in the Senate—His reception by the people, on his route home—Campaign of 1848—Position of Mr. Van Buren—The Utica Convention—Buffalo Convention—Bitterness of the opponents of the democratic party against Gen. Cass—Characteristics of the contest—Confidence of the democratic party in their candidates.

The course of Gen. Cass in the Senate of the United States contributed to increase his fame as a statesman, and to add new and strong proofs of his attachment to his country and her institutions. Every act of his senatorial career—every sentiment uttered by him, carried in itself evidence of his nationality as a legislator. It seems to have been with him an ever present principle—that mere expediency or temporary advantage should never be permitted to supercede the claims upon his judgment, of a well founded and reasonable policy. To meet the whole question at once and decide upon it, in view of all its bearings and consequences, was considered by him better, than to temporize, and plan and intrigue to avert until some further day, the final result. It was in this bold and decisive manner that he met the exciting and perilous question which pervaded the public mind and absorbed public attention, previous to the meeting of the democratic Baltimore Convention of 1848. The democratic party throughout the union may be said to have been at that time, comparatively unanimous in the wish that Gen. Cass should be their candidate for the Presidency, to succeed Mr. Polk. The numerous manifestations of public feeling, which by means of the public press, circulated through the country, established the fact, that not only was he the favorite candidate of the democracy of a *majority of the States,* but of the *democratic party* within those States respectively. Every section of the Union, except those States having a distinguished citizen of their own aspiring to the Presidency, emphatically cal-

led upon Gen. Cass to be their candidate. They had carefully noted his public career, and had not forgotten the noble trait he exhibited, when in 1844 he took the field, in support of his successful competitor before the convention. His views on the Oregon question, on the slavery question, on the tariff, on all the leading measures, were well known to be free from sectionalism. He regarded the entire country as interested in all these questions, and in acting upon them he was governed by what, in his judgment, seemed most beneficial to the whole. Such a man was most fit to be at the head of the government, at a time when agitation and party spirit and an unhealthy sentiment on some topics, prevailed. The " Wilmot Proviso " had arrayed in its favor, a number of partisans, and among them a few distinguished and prominent democrats, whose previous doctrines and practice had been diametrically opposed to its provisions. The excitement on this question reached such a height in the State of New York that two sets of delegates were selected to the Baltimore Convention, one for, and one opposed to the Proviso. The acerbity of feeling between these two parties was so powerful, that no concession could be obtained from either, nor under the circumstances could either participate in the action of the Convention, consequently New York debarred herself from casting a vote for the democratic nominee.

The Baltimore convention assembled on the twenty-second of May, 1848. Hon. Andrew Stevenson, of Virginia, was chosen President. It was resolved that the two-third rule should govern in the choice of candidates for President and Vice President. The two sets of Delegates from New York, claiming seats in the convention, the subject was referred to the committee on credentials. The committee adopted a resolution, not to open the discussion between the conflicting parties for seats in the convention, until each party should pledge themselves to abide by the decision of the convention, and agree to support, by all honorable means, the nomination made by that body. To this resolution the delegates selected at the Utica Convention (characterized as Barnburners) responded that they would not pledge themselves as required by the committee on credentials, and that they must be admitted unconditionally, or not at all.

The delegates chosen by the Syracuse Convention (called H unkers) responded, that they acknowledged the right of the convention to settle the question of admissibility—that they w old acquiesce in the decision of the convention, in determining which delegation should have seats therein and that they would support such nominees as the convention should present for the support of the democratic party.

The committe reported to the convention their proceedings, with a resolution in substance that the Syracuse delegates were entitled to seats in the convention.

Leave was granted by the convention to the contesting parties, to advocate their respective claims, and gentlemen from both delegations addressed the convention. Upon discussion and deliberation the convention adopted a resolution allowing both sets of delegates from New York to participate in all the proceedings and privileges of the convention and to cast seventy-two votes for the State, that being the number of delegates from the State of New York claiming seats in the convention.

The convention being organized, proceeded to nominate a candidate for the Presidency. On the first ballot, Lewis Cass, of Michigan, received one hundred and twenty-five votes, being the votes in part, of eighteen States. James Buchanan, of Pennsylvania, received fifty-five votes, being the votes in part, of eight States. Levi Woodbury, of New Hampshire, received fifty-three votes, being the votes in part, of twelve States. George M. Dallas, of Pennsylvania, received three votes, being part of the vote of the State of Georgia. On this ballot, the votes of the States were divided among the candidates. The whole number of votes cast in the convention, was two hundred and thirty-six. The number necessary to a choice, one hundred and fifty-seven, (New-York and Florida not voting;) and no one having received that number, there was no choice.

On the second ballot, Gen. Cass received one hundred and thirty-three votes, Mr. Buchanan fifty-four, Mr. Woodbury fifty-six, and Mr. Dallas three;—New-York and Florida not voting. No one receiving two thirds of the votes cast, the convention proceeded to a third ballot, when Gen. Cass received one hundred and fifty-nine votes, Mr. Buchanan forty, Mr. Woodbury fifty-three, and

Gen. Worth five. No choice being made, the convention proceeded to a fourth ballot, when Gen. Cass received one hundred and seventy-nine votes, out of two hundred and fifty-four, and was declared duly nominated by the convention, as the candidate for President. The announcement of the result by the president, was received with enthusiasm and long continued applause; the entire convention uniting in one spirit stirring shout of approbation. The delegates from those States which did not cast their votes for General Cass, upon the last ballot, requested that their vote might be changed, so that the nomination might be unanimous. This was done; and with the exception of one delegate from Alabama, and the Florida delegation, the convention was unanimous in tendering a cordial and hearty support to the nominee. The unanimity with which Gen. Cass was selected by the convention as the Presidential candidate of the democracy, is alike an evidence of the extent and substantial character of his popularity, and of his superior qualifications for the office.

It is a severe but salutary test to which the qualifications of a candidate are subjected, when he is brought under the ordeal of a two-third vote. None but the truly great can successfully undergo the scrutiny of its application; and he who comes before the people, endorsed by its approbation, is most certainly entitled to their confidence and support.

From among the ablest statesmen in the country, they selected him whom they deemed most eminently to possess all the requisites necessary to constitute a leader; to whose support the democracy could rally with pride and enthusiasm.

Gen. William O. Butler, of Kentucky, was, at a subsequent session of the convention, nominated for the Vice Presidency.

The venerable Andrew Stevenson, president of the convention, in taking leave of it, at the close of its labors, paid the following brief but expressive tribute to the character and capacity of General Cass:—

"I congratulate you," said he, "and the country upon the issue of your deliberations. I rejoice that you have done that which I knew you would do—honored yourselves, honored the party, honored the country, by presenting two candidates worthy—most worthy—to fill these high and distinguished stations. Gentlemen, you have discharged that duty. With one of these nominees, I have

been intimate from early life. I know him well. I have observed him at home and abroad, and I can say, unhesitatingly, that if there be one man of stainless character—if there be one man whose claims to public confidence are founded upon private virtue, that man is LEWIS CASS.

Gen. Cass was notified of his nomination by a written communication from the President and Vice Presidents of the convention, to which he returned the following letter of acceptance.

WASHINGTON, May 30, 1848

GENTLEMEN :—I have the honor to acknowledge the receipt of your letter of the 28th instant, announcing to me that I have been nominated by the convention of the democratic party its candidate for the office of President of the United States, at the approaching election.

While I accept, with deep gratitude, this distinguished honor—and distinguished indeed it is—I do so, with a fearful apprehension of the responsibility it may eventually bring with it, and with a profound conviction that it is the kind confidence of my fellow citizens, far more than any merit of my own, which has placed me thus prominently before the American people. And fortunate shall I be, if the confidence should find, in the events of the future, a better justification than is furnished by those of the past.

I have carefully read the resolutions of the Democratic National Convention, laying down the platform of our political faith, and I adhere to them as firmly; as I approve them cordially. And while thus adhering to them, I shall do so with a sacred regard to "the principles and compromises of the constitution," and with an earnest desire for their maintenance "in a spirit of moderation and brotherly love, so vitally essential to the perpetuity of the Union, and the prosperity and happiness of our common country;"—a feeling which has made us what we are, and which, in humble reliance upon Providence, we may hope is but the beginning of what we are to be. If called upon hereafter to render an account of my stewardship, in the great trust you desire to commit to me, should I be able to show that I had truly redeemed the pledges thus publicly given, and had adhered to the principles of the democratic party with as much fidelity and success as have generally marked the administration of the eminent men to whom that party has hitherto confided the chief executive authority of the government, I could prefer no higher claim to the favorable consideration of the country, nor to the impartial commendation of history.

This letter, gentlemen, closes my profession of political faith. Receiving my first appointment from that pure patriot and great expounder of American democracy, Mr. Jefferson, more than forty years ago, the intervening period of my life has been almost wholly passed in the service of my country, and has been marked by many vicissitudes, and attended with many trying circumstances, both in peace and war. If my conduct in these situations, and the

opinions I have been called upon to express, from time to time, in relation to the great party topics of the day, do not furnish a clear exposition of my views respecting them, and at the same time a sufficient pledge of my faithful adherence to their practical application, whenever and wherever I may be required to act, anything further I might now say, would be a mere delusion, unworthy of myself and justly offensive to the great party in whose name you are now acting.

My immediate predecessor in the nomination by the democratic party, who has since established so many claims to the regard and confidence of his country, when announcing, four years ago, his acceptance of a similar honor, announced also his determination not to be a candidate for re-election. Coinciding with him in his views, so well expressed, and so faithfully carried out, I beg leave to say, that no circumstances can possibly arise, which would induce me again to permit my name to be brought forward in connexion with the chief magistracy of our country. My inclination and my sense of duty equally dictate this course.

No party, gentlemen, had ever higher motives for exertion, than has the great democratic party of the United States. With an abiding confidence in the rectitude of our principles, with an unshaken reliance upon the energy and wisdom of public opinion, and with the success which has crowned the administration of the government, when committed to its keeping, (and it has been so committed during more than three-fourths of its existence,) what has been done, is at once the reward of past exertion and the motive for future, and, at the same time, a guarantee for the accomplishment of what we have to do. We cannot conceal from ourselves that there is a powerful party in the country, differing from us in regard to many of the fundamental principles of our government, and opposed to us in their practical application, which will strive as zealously as we shall, to secure the ascendency of their principles by securing the election of their candidate in the coming contest. The party is composed of our fellow citizens, as deeply interested in the prosperity of our common country as we can be, and seeking as earnestly as we are, to promote and perpetuate it. We shall soon present to the world the sublime spectacle of the election of a Chief Magistrate by twenty millions of people, without a single serious resistance to the laws, or the sacrifice of the life of one human being—and this, too, in the absence of all force but the moral force of our institutions; and if we should add to all this, an example of mutual respect for the motives of the contending parties, so that the contest might be carried on with that firmness and energy which accompany deep conviction, and with as little personal asperity as political divisions permit, we should do more for the great cause of human freedom throughout the world, than by any other tribute we could render to its value.

We have a government founded by the will of all, responsible to the power of all, and administered for the good of all. The very

first article of the democratic creed teaches that the people are competent to govern themselves: it is indeed, rather an axiom than an article of political faith. From the days of General Hamilton to our days, the party opposed to us, of whose principles he was the great exponent, if not the founder—while it has changed its name, has preserved essentially its identity of character; and the doubt then entertained and taught of the capacity of man for self government, has excited a marked influence upon its action and opinions. Here is the very starting-point of the difference between the two great parties which divide our country. All other differences are but subordinate and auxiliary to this, and may, in fact, be resolved into it. Looking with doubt, upon the issue of self government, one party is prone to think the public authority should be strengthened, and to fear any change, lest that change might weaken the necessary force of the government; while the other, strong in its convictions of the intelligence and virtue of the people, believes that original power is safer than delegated, and that the solution of the great problem of good government consists in governing with the least force, and leaving individual action as free from restraint as is compatible with the preservation of the social system, thereby securing to each all the freedom which is not essential to the well-being of the whole.

The resolutions referred to by Gen. Cass in his letter and which he adopts as the exponent of his political creed, to which he would firmly adhere, and which he cordially approves, are the following:

Resolved, That the American democracy place their trust in the intelligence, the patriotism, and the discriminating justice of the American people.

Resolved, That we regard this as a distinctive feature of our political creed, which we are proud to maintain before the world as the great moral element in a form of government, springing from and upheld by the popular will—and we contrast it with the creed and practice of federalism, under whatever name or form, which seeks to palsy the will of the constituents, and which conceives no imposture too monstrous for the popular credulity.

Resolved, therefore, That, entertaining these views, the democratic party of this Union, through their delegates assembled in a general convention of the States, coming together in a spirit of concord, of devotion to the doctrines, and faith of a free representative government, and appealing to their fellow citizens for the rectitude of their intentions, renew and re-assert, before the American people, the declarations of principles avowed by them, when on a former occasion, in general convention, they presented their candidates for the popular suffrages:—

1. That the federal government is one of limited powers, derived solely from the constitution, and the grants or power shown

therein ought to be strictly construed by all the departments and agents of the government, and that it is inexpedient and dangerous to exercise doubtful constitutional powers.

2. That the constitution does not confer upon the general government the power to commence and carry on a general system of internal improvements.

3. That the constitution does not confer authority upon the federal government, directly or indirectly, to assume the debts of the several States, contracted for local internal improvements, or other State purposes, nor would such assumption be just and expedient.

4. That justice and sound policy forbid the federal government to foster one branch of industry to the detriment of another, or to cherish the interests of one portion to the injury of another portion of our common country; that every citizen, and every section of the country has a right to demand and insist upon an equality of rights and priveleges, and to complete and ample protection of persons and property from domestic violence or foreign aggressions.

5. That it is the duty of every branch of the government to enforce and practice the most rigid economy in conducting our public affairs, and that no more revenue ought to be raised than is required to defray the necessary expenses of the government, and for the gradual but certain extinction of the debt created by the prosecution of a just and necessary war, after peaceful relations shall have been restored.

6. That Congress has no power to charter a national bank; that we believe such an institution one of deadly hostility to the best interests of the country, dangerous to our Republican institutions and the liberties of the people, and calculated to place the business of the country within the control of a concentrated money power, and above the laws and the will of the people; and that the result of democratic legislation, in this and all other financial measures upon which issues have been made between the two political parties of the country, have demonstrated to candid and practical men of all parties, their soundness, safety and utility in all business pursuits.

7. That Congress has no power under the constitution to interfere with or control the domestic institutions of the several States, and that such States are the sole and proper judges of everything in their own affairs, not prohibited by the constitution; that all efforts of the abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanence of the Union, and ought not to be countenanced by any friend of our political institutions.

8. That the separation of the monies of the government from

banking institutions is indispensable for the safety of the funds of the government and the rights of the people.

9. That the liberal principles embodied by Jefferson in the Declaration of Independence, and sanctioned in the constitution, which makes ours the land of liberty, and the asylum of the oppressed of every nation, have ever been cardinal principles in the democratic faith; and every attempt to abridge the present privilege of becoming citizens and the owners of soil among us, ought to be resisted with the same spirit which swept the alien and sedition laws from our statute books.

The doctrines of these resolutions have been sanctioned by several successive national democratic conventions, and are the basis of the organization of the democratic party of the union. The principles inculcated in some of them have been, since their promulgation, incorporated in the laws of our country.

Gen. Cass on accepting the nomination tendered to him, resigned his seat in the senate of the United States, as Senator of the State of Michigan, and returned to his residence in Detroit. His route was one continued scene of greeting and welcome, the spontaneous offering of a people, of their heartfelt and enthusiastic admiration of his conduct as a public man. Having on every proper occasion, declared without equivocation or reservation, his political principles, he determined to await in the retirement of his home, the decision of his fellow-citizens of the Republic, in the great contest then approaching.

The Presidental campaign of 1848 will long be remembered as the most exciting contest that has taken place in our country. The question of abolishing slavery had become by the artifices and intrigues of wily politicians involved with the question of admitting new territories under the protection of our constitution and laws. A party organized itself upon the basis of non admission of any new territories, unless the restriction imposed by the "Wilmot Proviso" was incorporated in the act of admission. No doubt a large number of those who advocated the doctrine of the Proviso, were honest in their intentions of putting a limit to the extension of slavery, and of confining it within the boundaries where it then existed, but there were men, who stimulated the advocacy of this doctrine, and encouraged the organization of a party founded upon it alone, who were not sincere in the position they assumed directly upon the principle of the proviso. The personal friends of a

distinguished man, who had been elevated by the democracy to the highest office in their gift, conceived that latterly, the democratic party had not done justice to his claims upon their further support, by refusing to re-nominate him for the Presidency after his defeat in 1840, resolved that the democratic party of the union, should feel the mark of their displeasure. To promote their object, they seized upon the Proviso, and having constructed upon it an organization separate and distinct from the two great parties, invited all whom disaffection, disappointment, or selfish ambition actuated, to join their standard. A convention was held at the city of Utica in the State of New York, in the summer of 1848, at which Martin Van Buren was nominated for President. He accepted this nomination, although conscious that by so doing he would desert the standard of principle he had supported through a life of distinguished public service, and might place in perilous danger the party which for so many years had honored him with their confidence. Subsequently to this convention, a general meeting of this newly organized political faction was held at Buffalo, New York. It was composed of the disaffected of the democratic and whig parties, and the abolitionists. The result of the convention, after much disagreement, was the ratification of Mr. Van Buren's nomination at Utica, and the nomination of Charles F. Adams, of Boston, for Vice-President. The latter gentleman, a son of John Quincy Adams, and an hereditary opposer of democracy in every form, was thus placed by the side of one whose pure democracy never was questioned until the disorganizing conduct of his personal friends, in connection with the selection of delegates to the Baltimore Convention of 1848, awakened the suspicion that "New York's favorite son" bore rankling in his bosom, in the peaceful quietude of Lindenwald, an inveterate resentment against the democratic party. What rendered the course of Mr. Van Buren more reprehensible than it otherwise might have been, and confirmed the opinion that private griefs had very much to do with his acceptance of the Utica nomination, was the incontrovertible fact, that the doctrines in regard to slavery, promulgated by the convention of 1848, and cordially supported by Gen. Cass, were identical in every respect with those promulgated by the convention of 1840, which nominated Mr. Van Buren as

the democratic candidate for President. And more than this. The resolutions declaring the sentiments of the Convention of 1840, were previous to its session, prepared by the late Hon. Silas Wright and submitted to Mr. Van Buren for examination. He not only approved of them, generally, but suggested, as appears by a letter of the late Gov. Hill of New Hampshire, that the resolution relating to the slavery question, should be pointed and unequivocal: and upon his suggestion the concluding clause of that resolution was added to the draft, viz :—"That all efforts of the abolitionists or others made to induce Congress to interfere with questions of slavery, or to take incipient steps in relation thereto, are calculated to lead to the most alarming and dangerous consequences; and that all such efforts have an inevitable tendency to diminish the happiness of the people, and endanger the stability and permanency of the Union, and ought not to be countenanced by any friend of our political institutions."

In Mr. Van Buren's inaugural address, he further sanctioned the doctrine of the convention, by asserting that he "must go into the Presidential chair the inflexible and uncompromising opponent of every attempt on the part of Congress, to abolish slavery in the District of Columbia against the wishes of the slaveholding States. "It now only remains for me," said he, "to add, that no bill conflicting with these views, can ever receive my constitutional sanction."

The platform of doctrine upon which the democratic party of 1840 with Mr. Van Buren stood, the platform of 1844 with Mr. Polk, and the platform of 1848, with Gen. Cass, were precisely identical in all those things, which Mr. Van Buren and his friends supported in 1840, and repudiated in 1848. If the doctrines were sound in 1840, when Mr. Van Buren pledged himself to their support under all circumstances, what other motive could he have in 1848 to oppose and denounce them, than the sole and personal one of chagrin and disappointment, because the democracy wished to transfer a portion of their confidence to other eminent men, and afford him the opportunity to enjoy that retirement and repose, which his years and public services entitled him to.

The regular opponent of Gen. Cass for the Presidency, was Gen. Zachary Taylor, nominated by a convention of the Whig

party, held at Philadelphia in June, 1848. The military achievements of Gen. Taylor in the war with Mexico, had won for him a high place in the affections of the people. He was brought forward by his friends as a candidate for the Presidency at an early day. He was not connected with any political party, nor were his opinions on any of the leading measures generally known. Letters from individuals, in different parts of the Union, reached him in his camp on the battle field, soliciting him to declare himself a candidate for President. To these letters Gen. Taylor replied, expressing himself ready to receive the votes of any of his fellow citizens who were disposed to sustain him. The Democratic party had chosen their candidate, and were therefore not to be classed among the supporters of Gen. Taylor. The Whig party were alone his reliance for a nomination and support, yet he would not, nor did he from the time his name was first mentioned in connection with the Presidency, to the day of his nomination, commit himself to the support of any of the principles by which that party was characterized.

By the time the Philadelphia convention assembled, the leaders of the Whig party, convinced that the elements of discord had fairly begun to work among the Democratic ranks, and having first in view, as paramount to all else, the defeat of Gen. Cass, they determined that it would be better to go before the people with a candidate who could not be charged with having supported Whig principles, than one who had been identified with them. Besides, Gen. Taylor had declared that, whether nominated or not, he would not withdraw his claims to the confidence of his fellow citizens. Hence he was nominated by the convention, and placed before the people for their support, on the ground of his military glory and success. The convention neither adopted resolutions nor an address, but silently hoisted the flag of Gen. Taylor and adjourned.

The convention having made no declaration of principle, and its candidate, Gen. Taylor, being equally non-committal, the contest assumed a new character, solely one of opposition to the democratic nominee and the party which sustained him. Thus every element of opposition could unite in aid of the one controlling object. No principle being at issue for them to contend for, no

matter how greatly they might differ as party men, they could fight shoulder to shoulder on the platform of *opposition* which a combination of circumstances had erected for them. It was thus amid unprecedented excitement and partisan spirit that the contest was carried on. No means, fair or foul, were left unused, to defeat Gen. Cass. The Whig party, really, did not care whether Gen. Taylor was elected or not, so long as Gen. Cass was defeated. That party would have hailed the election of Mr. Van Buren as a triumph of their own. No event in the political world would, at any time, so exasperate the politicians of the Whig party as the election of Gen. Cass to the Presidency. With such determined and unscrupulous opponents, it was a matter of no great surprise that the Democratic party was not successful in 1848. A course of political warfare, until then unknown in party tactics, was adopted—a disregard of every honorable principle which had ever before governed the contest of parties for power. The political opinions of Gen. Cass were misrepresented in every manner, the skill and ingenuity of his opponents could devise; his private character was slandered, and acts of his life, which are generally considered as conferring honor, and worthy of respect, were turned against him, and distorted into weapons of injury.

The aggregate vote polled at the election of 1848, for Cass, Taylor, and Van Buren, was 2,872,000, of which Gen. Cass received 1,219,962; Gen. Taylor 1,360,752, and Mr. Van Buren 291,342. Mr. Van Buren undoubtedly received a sufficient number of democratic votes in the free States to turn the scale in favor of Gen. Taylor. By this influence the States of New York and Pennsylvania, in reality Democratic by a large majority, were made to cast their electoral vote for the Whig candidate, giving him sixty-two votes in the electoral college. Taking into consideration the vote cast for Van Buren, Gen. Cass received a very large majority of the votes of the people, over Gen. Taylor, but the majority against him in two of the largest States of the Union, having the greatest electoral vote, gave the preponderance to Gen. Taylor.

It is not the purpose of this work to enter at length into a discussion of the political principles of any party. To mention in outline the general features which marked the Presidential election

of 1848, is deemed sufficient to convey to the reader a correct idea of the position of the Democratic candidate in that contest. The Democratic party, it is true, were defeated, but not on the ground of their principles or of their candidate. They were satisfied of their correctness—were not discouraged by the result—and maintained without diminution their confidence in and attachment for their candidate.

CHAPTER XVII

Effects of defeat in 1848—Increased confidence of the people in the political views of Gen. Cass—He is re-elected to the Senate—First session of the thirty-first Congress—Importance of the questions before it—The feeling of the south—Course of ultra politicians—Efforts of Compromise—Propositions of Messrs. Clay and Bell—Mr. Foote's Resolution—Gen. Cass' remarks—Remarks in reply to Mr. Berrien—Report and Bill of committee of thirteen—Amendments to the bill—Opposition to the admission of California—Remarks of Gen. Cass—The "Fugitive Slave" bill—Suggestions of Gen. Cass in relation to it—Compromise measures—Their effects—Efforts of Gen. Cass and other eminent men to create a sound state of feeling in regard to slavery—His remarks at a public meeting in the city of New York—Extract from his letter to the Democratic Union festival, at Baltimore—His action on the slavery question approved by the people—Repeal of Resolutions of Instruction by the Legislature of Michigan—Unanimous re-election of Gen. Cass by the Legislature of Michigan, in February, 1851.

The defeat of the democratic party, in 1848, was the means of causing a salutary change in the views of many prominent and influential men, who, in that contest, had either supported with indifference or openly opposed the majority of their political friends. An examination of the real position of the democratic candidate, tested by cool and dispassionate reason, and confirmed by results, convinced them, that the standard he had raised was the right one for the safety and interests of the country. Investigation produced conviction, and conviction confidence in the purity of the national doctrine, upon which Gen. Cass had staked his reputation as a statesman, and his success as a candidate for the Presidency. This confidence was exhibited by the general wish of the democratic party that Gen. Cass should be re-elected to the Senate to fill the unexpired portion of his original term of six years. The legislature of Michigan, of 1849, obeyed the voice of their constituents, and their political friends elsewhere, and Gen. Cass resumed his seat in the Senate of the United States.

The first session of the thirty-first Congress, in 1849 and 1850, was peculiar for the exciting and important character of the propositions brought before it. The south had for years complained of infringement by the north upon their rights as members of the

Union—not only in commercial matters, but in the more domestic and peculiar institutions existing among them. The course pursued by ultra politicians of both north and south, had its effect in fomenting a state of feeling, which daily increased in bitterness and exasperation. The wise statesmen of the land endeavored to avert the evil which they foresaw would inevitably befall the Union, if the discord and dissension between the north and the south were not removed. Eminent men, from both sections, united in devising measures calculated to allay the irritation. Several methods of compromise were brought forward, and debated most ably and arduously, through a session of eight months. Messrs. Clay, Foote and Bell severally proposed terms of compromise and adjustment of the questions in controversy between the free and slave States, connected with the subject of slavery. The propositions of Messrs. Clay and Bell, were embraced in a series of resolutions which elicited much discussion. Mr. Foote simply introduced a resolution to the effect, that it was the duty of Congress, at that session, to establish suitable territorial governments, for California, Deseret, and New Mexico. Gen. Cass supported this resolution, and, as Mr. Hale, of New Hampshire, had intimated that he should move the application of the Wilmot Proviso to the resolution, thus bringing up again that vexed point for discussion, Gen. Cass availed himself of the opportunity to express his views upon its constitutionality and expediency. Opening his argument with a preliminary remark upon the abstract character of the resolution, and arguing that Congress had not unlimited power of legislation over the territories; and drawing a distinction between the right to institute governments for territories, and the right to legislate over their internal concerns, he said :—

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There is no clause in the constitution which gives to Congress express power to pass any law respecting slavery in the territories. The authority is deduced from various sources, which I propose to examine by-and-by. But every construction which would give to a foreign legislature jurisdiction over this subject of slavery—by foreign I mean not elected by the people to be affected by its acts, nor responsible to them—would equally give it jurisdiction over every other department of life, social and political, in the territories: over the relations of husband and wife, of parent and child, of guardian and ward, as well as over the relations of master and servant; and embracing, within the sphere of its operations, the

whole circle of human rights, personal and political—life, liberty, and property in all their various modes of enjoyment. I say "the power of Congress over slavery;" for, if we have power to abolish it, or to exclude it, we have power to institute it. We possess complete jurisdiction over the subject; for there is no intellect, however acute, which can so limit the legislative right of action, if it exist at all, as to apply it to the exclusion of slavery, and withhold it from its institution. If any one doubts this proposition, let him turn to the Constitution and show the limitation. Before I can believe that such a power was granted, so remote from the objects of the government which the framers of the constitution sought to establish, belonging exclusively to the local questions affecting the different communities into which we are divided, I must abandon many of the illusions I have cherished respecting the wisdom of the statesmen who composed the Convention of 1787.

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Reverting to the proposition that Congress has unlimited power of legislation over the territories, the first reflection which strikes the inquirer, is, that if this power were intended to be granted, nothing was more easy than for the Convention to place the subject beyond doubt by a plain expression of the object. Instead, then, of five or six clauses of the constitution, some with remote relation to the subject, and some with none at all, which are in succession relied upon as the foundation of this power, we should have had a clear authority for the exercise of one of the highest attributes of government; the highest, indeed, the right of unlimited legislation. The clause most frequently quoted in support of this right is that which provides that "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." But I have no hesitation in saying, that if general jurisdiction over life and liberty was intended to be granted by this provision, its phraseology is little creditable to the person who prepared it or to the body which adopted it. Heretofore the universal judgment of our country has pronounced that the Constitution of the United States is not less admirable for the force and perspicuity of its language than for the principles it establishes and the government it instituted. Proper words in proper places have been till now the characteristic feature of its mode of expression. But if the power *to make needful rules and regulations for the property of the United States* —for this is the grant, and all the grant—conveys full legislative authority over this property and over all persons living in the same region of country, making man the mere incident of property, certainly never were words more unhappily chosen, nor a reputation for clearness and certainty more unjustly acquired. That the convention, when they intended to grant full legislative power, knew what terms to employ, is manifest from the phraseology of the provision for the government of the Federal District, and of places ceded "for the erection of forts, magazines, arsenals, dock-yards, and

other needful buildings." Here the right to exercise exclusive legislation is given in express terms, admitting no doubt, and the very words are employed which are best adapted to convey the power intended to be granted, and no other power. When, therefore, a construction is put upon the authority *to make needful rules and regulations for property*, which carries it far beyond the obvious import of the words, those assuming this ground are bound to explain why similar language was not used to grant similar powers, and by what just rule of implication a phrase so limited is made to convey a power so unlimited. How is it that, in the same instrument, *to exercise exclusive legislation* and *to regulate property* convey equally a general jurisdiction over all the objects of human concern? No man has done this. No man has attempted to do it; and it is an obstacle, *in limine*, which, till removed, is insuperable.

I have looked over the discussions on this subject with a view to ascertain whence this power is derived by the various speakers or writers who have taken part in this controversy, and it is not a little curious to analyze the different opinions, and to find what diversity of sentiment prevails respecting the true ground of Congressional interposition. There seems to be a sort of consentaneous admission that the power exists, but then comes the diversity of views when seeking to justify its exercise by the provisions of the Constitution.

The principal reliance, till recently, for the support of this general power of legislation has been upon that clause of the Constitution already quoted, which authorizes Congress to "dispose of, and make all needful rules and regulations respecting, the territory or other property belonging to the United States." More recently, however, as the subject has been investigated, this clause has found less favor, and other provisions have in succession been brought forward as justifying Congressional interposition.

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Much of the confusion which accompanies this subject has obviously arisen from the use we now make of the word "*territory*," applying it to those political communities which are organized under the name of Territorial Governments, and considering it as so applied in the Constitution. Indeed, so prevalent is this notion that, in an address of the Democratic members of the Legislature of New York, dated in April, 1848, this clause is quoted as though it read *territories* or "other property belonging to the United States;" thus fixing upon the word its acquired political signification. And this example has been followed in the House of Representatives, where one of the most intelligent members says, "the Constitution speaks of territories belonging to the United States." This use came by time, for the ordinance of 1787 obviously employed the word territory as descriptive of a region of country belonging to the United States, and which had been ceded to them by the members of the Confederacy. The "western territory"

was its popular designation, and it is thus called in an act of the old Congress passed May 20, 1785, entitled "An ordinance for ascertaining the mode of disposing of lands in the *western* territory." The meaning is here geographical, and not political; for no government was established there till more than two years after this period. And the proceedings of the old Congress abound with its use in that signification, proofs of which will be found in an act of April 13, 1785, in another of May 9, 1787, and yet another of May 12, of the same year, all before the passage of the ordinance for the government of the northwestern territory. Then came that ordinance providing for the government of this region of country, this *territory*, or *land*, or *domain*, as it is indiscriminately called in the legislative and other official acts of that period. Its more appropriate political designation seems to have been "*district*," for the ordinance commences by declaring "that the said territory, [or region of country,] for the purposes of government, shall be one *district*, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient." And these districts were each to constitute a government, with a governor and judges to "reside in the district," who are to "adopt and publish laws in the district," and eventually, with a partially elective legislature, having authority "to make laws in all cases for the good government of the district," &c.

The territory or region of country is thus organized into a political district; and had these local communities, which we now call *Territories*, preserved this term district as descriptive of their political organization, or been known as Colonies, the English designation for remote possessions, we should probably never have heard of the extended construction now given to this power of *making needful rules for territory or land, and other property*. As in the Ordinance, so in the Constitution, both adopted in the same year, the word territory retains its geographical signification, and it was only by time and custom that it sometimes came to mean political communities, distinct from the geographical region where these are established. But this use of the term, I repeat, was unknown at the time of the adoption of the Constitution.

What, then, is the true import of this constitutional power, to make needful rules and regulations for the public property? If this were a question of the first impression, and a construction were now to be put upon this clause unembarrassed by practice or precedent, it is so clear in its phraseology and objects, that it is not probable there would be any diversity of opinion upon the subject. It would be conceded that it gave to Congress power to dispose of, use, and preserve the public property, wherever situated, and to exercise any power fairly "*needful*" to attain these objects. The slightest analysis establishes this construction. It is property alone which is the subject of the grant; and its disposition, and in connection with that, its use and preservation, are the objects. The frame of the sentence places this beyond doubt. The phrase

"territory or other property," makes territory one of the classes of property, and was doubtless here introduced as far the most important of them, being the *Western Territory*, the great fund destined to relieve the finances of the infant Confederation. He who denies this, is beyond the reach of philological reasoning.

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Now, it is manifest that if the power to make needful rules and regulations conveys a general grant of legislative authority, then the express clause for the exercise of jurisdiction with the consent of the States was unnecessary, and the Government of the United States, wherever it owns property, possesses by the act of ownership complete legislative jurisdiction within its limits.

For it is to be observed that this power "to dispose of and make needful rules and regulations," attaches to the public property whether found in the States or Territories, and is the only authority by which the public lands, wherever situated, are sold. And, consequently, the people living thereon, are subject to Congressional legislation, and may be placed beyond the reach of State authorities. Either this consequence follows, or the very same words, operating upon the very same subject, convey powers altogether different.

It is under this authority that our whole system of land laws has been established; that land has been surveyed and sold, trespasses prevented or punished, intrusions prohibited, and the proceeds of the national domain realized and carried to the national treasury. The laws for these purposes are general in their operation, not applicable to the Territories alone, but embracing in their action those portions of all the States where this kind of property exists.

And these laws, passed by virtue of this clause relating to the public property, cease to operate as soon as the United States cease to own such property. If a tract of land, wherever situated, whether within a State or Territory, is paid for and sold, all the provisions for the security of the United States, arising out of this special clause of the Constitution disappears at once, and the tract passes into the common mass of property, subject to all the usual incidents, and governed only by the usual local laws.

But it is yet strenuously contended, though certainly not with the same earnestness of conviction which marked the earlier discussions of this subject, that the natural and obvious import of this clause, giving Congress power to make *needful rules and regulations for the public property*, is not the true one, but that it gives complete legislative jurisdiction over the property itself, and over all the persons living within the Territories of the United States. And why? I have examined with some care the long debates upon this subject, and I find there are two different views taken of this clause, both of which unite in the same conclusion, but separate in the process by which it is reached. Those who advocate the one, contend that the word "territory" does not mean land alone, but includes also political jurisdiction; thus making Ameri-

can citizens a part of the national property, which Congress may "dispose of," or otherwise regulate at its pleasure. The advocates of the other, who certainly bring to this discussion greater numbers, as well as higher talents and position, while conceding that the word "territory" in this connection means *land*, maintain that the right to make needful rules and regulations concerning it, necessarily conveys unlimited powers of legislation over such property, as well as over the political communities, called Territories, where it is to be found.

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If the word "territory" here includes the right of jurisdiction, it follows that it was the intention of the framers of the Constitution to confer upon Congress the power to sell this jurisdiction over all the western cessions, and that this clause accomplishes the object. For, whatever be the true meaning of the word "territory," whether soil or dominion, or both, the authority granted is an authority to *dispose* of or sell it, equally with "other property." No process of analysis can separate the right to sell the "territory" from the right to sell the "other property." Congress, by this construction, could sell to every man the right of jurisdiction over his section or quarter section, as well as the right of soil; or it could sell the title to one man, and the jurisdiction to another, or both, or either to a foreign State, or to its subjects. The bare enunciation of such a proposition carries with it its own refutation. I cannot deal with it as a subject of argumentation. The power, under any circumstances, to cede a portion of the United States is, to say the least of it, a very doubtful one under our Constitution. For myself, I can find no such grant of authority in that instrument. Its powers are preservative, not destructive. I am speaking of a direct unquestioned cession; not of the fair settlement of a disputed boundary with a foreign nation, where the question is uncertain, and where the act of adjustment establishes the true line of demarcation. But that the Convention of 1787 should make it a fundamental provision of the new Government that it might alienate from this country, at its pleasure, and by the acre, too, its vast western domain, the object of so much solicitude and the cause of so many dissensions, almost terminating in separation, is a proposition equally at variance with our political history and with the spirit of our political institutions. And what still adds to the surprise which this course of reasoning is so well calculated to excite, is the fact that gentlemen who seek by construction to give to Congress this unlimited power of cession are among those who contend most strenuously for the obligation and inviolability of the ordinance of 1787, and for its virtual recognition by the Constitution; notwithstanding that ordinance places the *western territory* beyond any other final disposition than that of admission into the Union, with all the rights of the original members.

The other construction, which deduces a new power of unlimited jurisdiction from this constitutional authority "to dispose of

and make needful rules and regulations concerning the territory or other property belonging to the United States," concedes that territory is here land and property, but maintains that the needful regulation of it includes complete jurisdiction—not only the power to establish territorial governments, but to legislate for the territories in all cases whatsoever.

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I have already referred to what the Supreme Court said in another case; but I renew the reference for a different purpose, and extend the quotation to show whence this power, in the opinion of the Court, is derived.

"The term 'territory,' as here used, is merely descriptive of one kind of property, (says the Court,) and is equivalent to the word *lands;* and Congress has the same power over it as over any other property belonging to the United States; and this power is vested in Congress without limitation, and *has been considered* (a cautious expression, by-the-by) the foundation upon which the territorial governments rested." And they refer to a preceding opinion, where the Chief Justice, speaking of this article, and the powers growing out of it, applies it to the territorial governments, and says, "all admit their constitutionality." And again: Florida, while a territory, was "governed by that clause of the constitution which empowers Congress to make all needful rules and regulations respecting the territory or other property belonging to the United States." The word "territory," the Court says, "is here synonymous with land." Using the synonyme, the phrase will substantially read thus: *Congress shall have power to dispose of and make needful rules and regulations concerning the land of the United States.* And we are asked to believe that this guarded clause conveys complete jurisdiction, full power of legislation over the land itself, for all purposes, and over the individuals or communities, not only living upon it, while public property, but living upon it after it ceases to belong to the United States, and also upon those living in the same region. We have seen it laid down that this power is "plenary," and that rules and regulations concerning land, necessarily confer "complete jurisdiction" over land and men also.

We can well understand that a power to sell the land of the United States, and to make needful laws concerning it, gives the right of legislation for all purposes fairly connected with the use and sale of that kind of property, and necessary to these objects. The right to survey it, to convey it, to improve it, to protect it, and to use the various means properly required therefor; for these purposes concern the land, and the laws operate upon individuals in relation to their purchases, and upon all others who interfere with the rights of property in the United States. But how does a murder concern the land? or a marriage? or a note of hand? or any of the infinite variety of acts which pass between individuals in civilized communities? And if they do not, whence comes the

Congressional power of legislation, by which such acts are to be commanded, or prohibited, or punished? The Supreme Court indeed says that the power of Congress is without limitation; but the Constitution says it is not. The Constitution says, in the first place, that it must be needful; and, in the next place, that it must concern the land; and both of these injunctions are limitations, and guarded ones, too, upon the exercise of legislative power. Needful, not for all purposes; not for general jurisdiction; but for the objects of the grant of power, which concern the land, and cannot be separated from it.

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The second argument urged in support of the authority of Congress to legislate over the Territories is derived from the war and treaty-making power, which bring with them as an incident the right of acquisition, and this is followed by the right of legislating over the country acquired. Besides many speakers who have advocated this doctrine in debate, and a majority perhaps have done so, there are eminent authorities who avow the same opinion, and whose views are entitled to great consideration.

The effect of the war-making power upon the right of acquisition is, under our Constitution, an inquiry purely speculative, as no territory has ever been added to the Union by that process. Though the principle is thus broadly laid down, yet it is rather difficult to conceive how the mere act of war, though it bring conquest with it, can permanently annex a foreign country to the United States without the interposition of some department of the Government constitutionally competent to indicate the national will on the subject; and if this be so, the war-making power cannot be said to make the acquisition, or, in other words, the annexation, though it may afford the opportunity of its being made. The act of conquest and the act of annexation are, in such a state of things, as different in their character as in their operation. A treaty of peace confirming the conquest, and making the cession, carries the question to the treaty-making power. What course will be pursued to declare or to secure annexation, in the very improbable event of the conquest of a foreign country by the United States, with the determination of the Government utterly to subdue it, and to destroy its political organization, so that no authority could exist to give its assent to the terms proposed by the conqueror, is a case so little likely to happen as scarcely to deserve a place, even as a subject of speculation, in an elementary treatise.

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Another assumed ground for the exercise of this power is the right to admit new States.

"The purpose," [of the right of government,] says a member of this body, "is to train up a nation of freemen, and to fit them to share in the privileges of this Union. Whatever is necessary to this object Congress is authorized to do."—*Mr. Berrien, vol.* 1, *p.* 875.

For myself, sir, I take it that the reason for the exercise of this power of government by Congress, is simply that the Territories may be governed, and not left without political organization, and as there are no means provided for the institution of a government by the people of a territory, Congress has interfered to attain that object.

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If the right to admit new States gives the right to acquire territory before it becomes a State, with a view to its government by Congress, in order that it may be admitted into the Union, it seems to me many other constitutional powers of Congress would equally justify foreign acquisitions, in order that these powers might be exercised over them. Because you can admit new States, therefore you can acquire territory wherein to form them. Because you can lay and collect taxes, &c., therefore you can acquire territory where they may be levied and collected. I am speaking, as Judge Johnson was speaking, of the incidental and not of the direct power of Congress. The direct power of admission makes no distinction between foreign and domestic States, and therefore sanctioned the annexation of Texas. But, if Texas had been a colonial possession, and we had sought to acquire it before its admission, we must have found some other provision of the Constitution than this, to justify such action. In the one case the act of admitting is the exercise of a direct power; in the other, the act of acquiring is for the purpose of admission, and is, therefore, an incident which precedes, if I may so speak, instead of following, the power to which it is incidental. The derivative operates first, not as a means to aid the operation of the principal, but to call the principal into existence, by furnishing the subject, without which it could not be exercised. *This proposition is not in the book of the Constitution*, nor justified by its spirit or objects.

4. The right to sell.
5. The right of ownership.
6. The right or duty of settlement.

Each of these rights is assumed and advocated as a justification for the exercise of "complete jurisdiction" over the Territories; and I place them together because they bear a new relation to one another.

I have sought in vain, in the earlier opinions of the courts and in the views of the commentators on the Constitution, any support of the doctrine that the rights of sale or of ownership necessarily carry with them unlimited jurisdiction over the country to which they are attached. It is one of the discoveries which we owe to this prolific controversy, and has been urged with a good deal of zeal both here and at the other end of the Capitol.

But sir, this assumption of necessary action which claims for Congress the right of entire legislation over the Territories, is met and refuted by the fact that Congress from 1787 to this day, has never exercised any such power, and, therefore, its exercise is not

necessary in order to dispose of the public land. I have already adverted to the great difference, both in principle and practice, between the right to organize governments and the right to exercise full legislative jurisdiction, endeavoring to show that whatever justification, whether from necessity or construction, there may be for the former, there can be none for the latter. I have remarked that in the various speeches, decisions, and essays, which touch this general question, there is no established distinction preserved between the exercise of these powers, the one or the other being often referred to in convertible terms; and one of our ablest members thus states the question:

"Has Congress the right, under the Constitution, to legislate for the territory of the United States, organize governments for the inhabitants residing therein, and regulate within it all matters of local and domestic concern? I believe this question [not questions, the speaker evidently considering the power as one and the same] can be satisfactorily answered in the affirmative."—*Mr. Dix, vol.* 1, *p.* 862.

And yet it is very clear that the preservation of legal order being the object to be attained, as a constitutional justification for the action of Congress, if this has been attained without the exercise of the power to regulate "all matters of local and domestic concern,' then the fact is decidedly shown that such general power is not necessary to the sale of the public land, such land having always been sold without it. The Territorial Governments, have in all cases conducted the internal affairs of the Territories; and not one single instance of legislation by Congress can be produced, providing for the punishment of offences in the Territories, except, indeed, in those cases arising out of its peculiar jurisdiction, conferred by the Constitution, and which applies equally to them and to the States. That peace and good order, which gentlemen consider so essential to the sale of the public land, have been preserved by Territorial, and not by Congressional legislation. I repeat emphatically, that not a single exception to this proposition is to be found in the statute-book. There are, indeed, some half dozen provisions concerning civil rights, which have no relation to the fair power of establishing a government, but belong to the internal domestic affairs of the people themselves, which may be found in the ordinance of 1787, and in the subsequent action of Congress. But waiving, for the present, the objection in principle to their introduction, and granting that Congress knew what was for the benefit of the people better than they did for themselves, and that these instances for their interference were wise, and wisely conducted, still no man will contend that they were necessary to the preservation of order, or that the attainment of that object alone justified their introduction.

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The provision of the Constitution which declares that "all debts and engagements entered into before the adoption of the Constitution shall be as valid against the United States, under this Consti-

tution, as under the Confederation," has been relied upon as granting or establishing the power to exercise complete political jurisdiction over the Territories.

The argument is thus urged:

"That ordinance, then, [the ordinance of 1787.] was a compact, an engagement, a contract, between the people of the United States, in their collective capacity, and the people who should inhabit this new territory." —*Mr. Murphy, vol.* 1, *p.* 680.

A compact is a constitutional engagement. This ordinance, therefore, is rendered valid, so far as regards the Territorial government of 1787, "and this express acknowledgment of this compact by Congress, after the adoption of the new Constitution, as well as the recognition of it by the Constitution, made it binding, ratified it, and cured it of any unconstitutionality under the Confederation which, it might previously have been obnoxious to."—(*Same, p.* 680.)

So far as respects the "express acknowledgment of this compact by Congress, after the adoption of the new Constitution," as I know nothing, I have nothing to say. It has no place in this discussion. The acknowledgment of Congress, even if any were to be found, could not change the constitutional nature of this territorial "compact," as it is called. Its validity must be tested by the Constitution itself, and not by Congressional acknowledgments. Territory since acquired (the speaker contends) may be governed in consequence of the right of acquisition, while all the region embracing Alabama, Mississippi, and Tenessee, is a *casus omissus*, for which the Constitution provides no power of government; for I have already remarked that the cessions of the States could not enlarge the powers of Congress.

What I have to say upon this subject I shall say very briefly. In the first place it is clear to me, from the words and the context and, I may add, from the evident object in view, that the clause respecting "debts contracted and the engagements entered into" has no relation to the exercise of political power.

In the next place, the whole argument is founded upon a palpable error, which the most cursory examination should have detected. The territorial government, established by the ordinance of 1787, was no compact. It assumes no such characteristic in that instrument, though this error has been so general that one of the most distinguished members of this body speaks of the ordinance "*as assuming the form of a compact.*" It assumes to be merely an ordinary act of legislation, "ordained by the United States in Congress assembled," agreeably to the formula then in use. The local government is organized, with all the provisions which concern it, in eleven sections or divisions, which occupy two-thirds of the ordinance, and it would have been perfectly absurd to declare these temporary arrangements "a compact between the original States 'and the people and States in the said territory, and forever unal-'terable, unless by common consent." Why, they have been al-

tered time and again by Congress, without the slightest opposition, and no voice has ever been raised to object to these alterations on account of this inviolability. The judges were at first appointed during good behavior. This tenure was afterwards reduced to three years. The legislative council were to be elected by Congress from a list containing double the necessary number, nominated by the House of Representatives. This eventually gave way to a popular election. The governor at first had the appointment of all officers, but the concurrence of the legislative council in his nomination was afterwards required. The delegate to Congress was elected by the Legislature. This election was subsequently given to the people. These changes, and there are many more in the several governments, upon which the ordinance of 1787 operated, are enough to show that they were considered within the control of Congressional authority, protected by no character of inviolability.

But it is all idle to talk about the compacts in the ordinance of 1787. The articles so designated are destitute of the very first elements of reciprocal obligation. There was but one party to them. The other party had not yet come into being, or, rather, the other party was not heard at all; for it was composed of the inhabitants then living in the Territory—the settlers upon the Wabash, in the Illinois country, in the Detroit country, at Green Bay, and at Prairie du Chien. These constituted the counter party then in existence, and this compact was declared binding upon them and their descendants, and irrevocably so, without their consent and without their knowledge. Why, sir, if there had been but one man in that country—and there were many thousands, and among these not a few emigrants from the States—he would not have been bound by a compact he never heard of, and to which his consent was never required, either expressly or impliedly, and much less the people then there. As to making a contract with unborn States and millions, by the simple act of a foreign body, constituting itself one of the parties, and acting for the other, and without any means being provided for procuring their assent in all time, either by the act of the then existing or of any future generation, by an acceptance of the terms held out, or by any other mode, had not our own ears told us the contrary, we might well have doubted whether a man could be found to contend for so strange a doctrine.

Besides the want of parties, there was a total want of power. No man with any regard to himself, looking to the articles of the old Confederation, can deny this, even if we had not the authoritative declaration of Mr. Madison, when speaking of it as a question neither disputed nor disputable, to which Mr. Adams assents. The articles are utterly silent on the point, and the exercise of the power was an open assumption of authority. If the "engagement," supposing there to have been one, wanted validity, the Constitution gave it none, but left it as it found it. A member of

the other House, whose zeal certainly outstripped his discretion when he said, in quoting his previous opinions, that "he had egotism enough to believe his as good as any other authority," and in doing so "that he but followed the examples of the courts in which it was the regular and every-day practice to cite their own decisions," declared also, quite *ex cathedra*, that "he should be able to show, &c., that these six articles of the ordinance were for ever binding, unless altered by mutual consent, and that no one in Indiana had ever been 'silly enough' to doubt the validity of the ordinance," (Mr. Pettit, vol. 1, p. 718.) It is not the validity of the ordinance we are now seeking as an ordinary act of legislation, but its inviolability or perpetual obligation. The speaker confounds two propositions entirely different in their nature. Let me ask him if any one in Indiana ever doubted the power of the people of that State to assemble in convention, and to introduce slavery there if they please?—to abolish the English common law, and substitute the Code Napoleon, or the Louisiana code, or even the *contume de Paris*, which at one time was the law of a part of Indiana, or nature of bail for offences, or find a better remedy for the preservation of personal liberty than the writ of *habeas corpus?*—all which are declared by the ordinance to be forever unalterable, but by common consent, or, in other words, they are questions of internal policy, which the people are not sovereign enough to touch without the consent of Congress I had supposed, till now, that the new States were admitted into the Union on "an equal footing with the original States, in all respects whatever." But if this doctrine of the perpetual obligation of this ordinance be correct, the new States and the old States occupy very different positions in the Union, and the powers of the latter are much greater than those of the former. As a citizen of the Northwest, I object *toto cœlo* to this humiliating difference, and I doubt if the gentleman will find many converts to his opinion in his own State.

In support of his views, he asks where the United States got the title of the public lands, but in one of the provisions of this "compact," which prohibits the new States from any interference in their disposition. Why, sir, the United States got the title of the public lands from the deeds of cession of the States, who owned them, and Congress got the power to sell and control them, not from the ordinance, which, as we have seen by the opinion of Mr. Madison, and which may be seen at any time by a reference to the Articles of Confederation, was valueless for that purpose; but from the constitntional authority to make "all the needful rules and regulations" respecting them, which was introduced to secure this very object.

There can be no doubt, sir, that this form of a compact was given to these important articles of the ordinance, in the absence of all real power over the subject, as having somewhat the appearance of a mutual arrangement, and therefore obnoxious to less

censure than a direct assumption of authority would have been. The first ordinance, (for that of 1787 is the second,) the ordinance of April 23, 1784, which, however, was repealed by the other before it went into operation, contained also this declared compact, but in a much more imposing form than it afterwards assumed. It provided, that "the foregoing articles shall be formed into a charter of compact, shall be duly executed by the President of the United States in Congress assembled, under his hand and the seal of the United States, shall be promulgated, and shall stand as fundamental constitutions." &c., &c. I presume this pushing compacts into constitutions for the new States by the sole authority of Congress was afterwards thought to be going a little too far, and the more modest form was finally adopted.

It is a singular commentary on the positive declarations of the inviolability of this ordinance, that at the very time they were made, an act of Congress was passed, almost without opposition, violating this ordinance in a fundamental particular. And we have been told by the chairman of the judiciary committee of the senate, that although the question was raised before the committee, four of the members out of five considered it of no weight, and the bill passed this body without even a discussion upon it. Among the articles of compact was one which provided that there should not be less than three nor more than five States in the Northwest Territory. This power had been exhausted, and the five States admitted into the Union. But a large portion of the territory has been detached from these States, and now forms part of the Minnesota Territory, to be organized into a separate State, or to form part of another, with the country west of the Mississippi. So much for the irrepealable articles of compact.

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Now, sir, as to the congressional precedents. But, before I proceed to consider them, permit me to make a quotation from the valuable work of an able and accomplished jurist, and most worthy man, the late Chancellor Kent. How an expositor of our Constitution could maintain the existence of a legislative right by the mere exercise of a legislative power, as I know not, I shall not attempt to explain. It is another proof that if we have not fallen on evil times, we have fallen on strange ones.

"It would seem from the various congressional regulations of the territories belonging to the United States, that Congress have supreme power, and the government of them, depending upon their sound discretion."

So much for the statute book, instead of the constitution.

But, sir, let us look at these congressional regulations. Fifteen territorial governments have been organized since the adoption of the constitution, differing in detail, but with one general principle pervading them, not rigidly adhered to, indeed, but sufficiently marked to show that it was the guiding feature of legislation—the right of the local governments to conduct the internal affairs of

their respective Territories. This series of legislation certainly proves, as Judge Marshall says, the possession of the power, and that its exercise has been necessary; but it leaves its origin to be sought elsewhere, in the will of the people, expressed in the charter of their government, or in the very necessity of the case.

I have said the "local governments," but I do not mean by that expression that in the earlier ages of territorial political history, these governments were controlled as much as they should have been by the people. They were not; for a very unjustifiable system was introduced—that of authorizing the governor and judges to pass laws by adopting them, and, of course, with many changes from the laws of the original States. No one would be now found hardy enough to propose such a plan; it is among the things that have been. It preserved, indeed, the distinction between the general and the local governments; but it confounded all the just divisions of power, and in principle annihilated every vestige of popular right. It was a mere act of arbitrary power.

No man can turn over the original articles of confederation without being sensible that Mr. Madison was right when he said that in assuming the administration of the public lands, and making them productive, and in erecting temporary governments over the Territories, Congress had acted without the least color of constitutional authority.

From one end to the other of that instrument there is not a single grant of power which, directly or indirectly, looks to such objects. The whole was a mere assumption, justified only, as Mr. Madison says, by the "public interest, the necessity of the case, which imposed on them the task of overleaping their constitutional limits." A gentleman, now no longer here, who investigated this subject, as he did all others, with great care, has supposed that, as Mr. Madison stated the defects of the confederation, and the necessity of supplying them by a new government, this consideration leads almost irresistibly to the conclusion that he viewed the provision respecting "rules and regulations" as the foundation of political jurisdiction.—(Mr. Dix, vol. I, 863.) This is not so, sir. The old Congress did these things without color of authority—erected temporary governments, provided for the admission of new States, and assumed the administration and sales of the public lands. The former was a power spent—it had performed its office. The political organization embraced all the territory then held by the United States; and it is not at all probable, though the general provisions were doubtless known, that the details of the ordinance were ever critically examined by the convention, who were occupied by subjects then vastly more important to them; though, indeed, a member of the House suggests that, as the convention and the old Congress sat at the same place, there was probably a conference, at which the ordinance, or some of its subjects, were discussed and mutually arranged. The convention sat at Philadelphia, and the Congress at New-York; and thus falls this con-

jecture, built upon a supposed coincidence of time and place. And thus it happened that there is no reference whatever to this ordinance to be found in the constitution, either directly or indirectly, nor any provision for the institution of temporary governments, the necessity for such a case not being foreseen—the power having been acted upon and spent.

But the admission of new States was provided for, being obviously a power that Congress would be called on to exercise; unless, indeed, this new doctrine, that the ordinance was among those "debts and engagements" which the constitution declared should continue valid; for, in that case, new States could have been admitted upon the original pledge, and any other grant of authority was unnecessary.

And the administration, too, of the public laws could not be carried on without the action of the new Congress, exercised almost from day to day; and the necessary authority for this purpose was provided by the power to dispose of the public property and to regulate it.

And here the constitution stops, leaving the right to establish temporary governments unprovided, the power having been exercised *de facto*, and no other territory remaining; not because the subject was not examined; but because it was examined and judged unnecessary, as is proved by the rejection of the following proposition in the convention declaring that Congress should be clothed with power "to institute temporary governments for the new States arising therein."

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Why, then, have Congress exercised the power of governing the Territories? and why has their action been submitted to in the absence of any constitutional authority? Let the remarks of Mr. Madison, on the assumption of the same power by the Congress of the confederation, and in which he participated, give the only answer that can be given to the question: "All this has been done," he says in the Federalist—that is, governments have been organized, &c., "without the least color of constitutional authority." He adds that he imputes no blame to Congress, because they could not have done otherwise. "The public interest, the necessity of the case, imposed on them the task of overleaping their constitutional authority." As I have already remarked, sir, there are clear indications, in the opinions of Judge Marshall and of Judge Story, that this "necessity of the case," or "inevitable consequence," was in their view, one of the grounds of justification for the action of Congress upon this subject, since the adoption of the constitution. "Perhaps," says the former, "the power of governing a Territory, &c., may result *necessarily* from the fact that it is not within the jurisdiction of any particular State, and is within the power of the United States." The latter adopts the same idea when he says, "it must consequently be under the dominion and jurisdiction of the Union, or it would be without any government at all." This

condition of things imposes the *moral necessity* to which both the Congress of the confederation and the Congress of the constitution have yielded. Now, sir, I am as far as Mr. Madison was from seeking to justify political action by the oft repeated plea of necessity. It has no place in a constitutional code. It is a mere assumption, and nothing more nor less. But when such a case happens, they incur the responsibility who yield to the necessity, and must throw themselves upon the country for their justification. If supported by public sentiment, they are safe; if not, they and their measures must fall together. Certainly it is the moral duty of any country, holding distant possessions, to institute governments for the preservation of social order. And here, and here alone, is the foundation of the power of government as exercised by Congress. It was assumed to preserve social order in distant regions; and had it been confined to its proper purpose, the institution of governments without interfering in the internal concerns of the people to be governed, it would everywhere have gone on to its proper consummation, the establishment of State government, without having its validity called in question. There were at first no peculiar circumstances to call public attention to the few violations of the great principle of self-government, which these organic laws contained, and, with one exception, these interferences were for the assertion of great well known principles, founded in the English law, and adopted into ours, and were thus the less likely to provoke investigation into the validity of their origin. All the Territories have been governed upon this general principle of Congressional jurisdiction, leaving to the people to be affected by them the passage of laws suited to their condition—a principle not only safe in itself, but familiar to every American, as being the very condition claimed by our revolutionary fathers, when they commenced their discussions with England. The violations of it were few—different in different organic laws, and unnecessary in all—and when pointed out to the public attention, by the circumstances of the times, were strenuously objected to, as justified neither by law or necessity, and therefore deriving no sanction from preceding legislation.

Upon this subject of territorial government, Congress began right, and it is difficult to ascertain why they afterwards admitted modifications at war with the true principles of safe legislation. The original ordinance of April 23, 1784, the predecessor of the ordinance of 1787, provided that the "settlers on any territory so purchased" might, on application, receive authority from Congress to meet together and establish temporary governments, &c.

Now, sir, among all the other reasons given for the exercise of legislation by Congress over the territories, there is but one which derives it from an express grant of power in the constitution, and that grant is found in the authority to dispose of and make rules and regulations for the public property. I put the proposition thus, because it is thus put by the supreme court. If this clause

contain within itself "complete jurisdiction" and "plenary powers" of legislation over all persons living on the public property, but till it becomes a State of this Union, then the Wilmot proviso is constitutional, and, as a member from the west says, "this government could sell the territories into slavery."

If, on the other hand, the power of superior legislation is deduced as an auxiliary to some other Congressional power, or to some *attribute*, or what not, then its exercise is limited by the circumstances to which it owes its origin. All the clauses in the Constitution, and all the clauses out of the Constitution, which have been referred to as the foundation of this power, require its exercise solely as the means of insuring law and order to the public territory. That power, as Mr. Madison says, is in "suspension of the great principle of self-government, and ought not to be extended further nor continued longer than the occasion might fairly require"

And yet this principle of limitation, so obvious, and so obviously just, is considered by an eminent lawyer in the Senate as absurd. He cannot, he says, conceive a greater *bundle of absurdities* than a proposition that a territorial legislature may exercise local powers which Congress cannot. Well, sir, those of us, credulously inclined, find ourselves in pretty good company, which furnishes some relief to our self-love thus sensibly wounded. Mr. Madison's opinion I have just quoted, and I will quote another, which carried *some weight* with it once, though now it seems a good deal out of fashion, and has even become an *absurdity*. It is to be found in the declaration of the Continental Congress of 1774, and thus reads: The English colonists "are entitled to a free and *exclusive* power of legislation in their several provincial legislatures, where their right of representation can alone be preserved in all cases of taxation and internal polity," &c.

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The power, whatever it is, comes from the people of the United States. And here is precisely the root of the error which leads to all these metaphysical subtleties. What the Constitution permits Congress may do, and nothing more. If the Constitution permits it to institute governments for the territories, and withholds the right to interfere in their internal concerns, while the former may be exercised, the latter must be avoided, and all the scholastic refinements of the olden or of the latter times cannot change, in one jot or tittle, this fundamental proposition. This new political axiom will hardly supersede the Constitution. Congress assumes the right to authorize the people of the territories to meet in convention to form constitutions and State governments. In like manner it assumes the right to authorize the people of the territories to exercise many of the privileges of self-government. And its power to do this must be tried, not by its power to do a great deal more, but by the great charter, the fountain of its authority. Whether this difference in fact exists between the power of gov-

ernment and the power of internal legislation under the principles of the constitution, is precisely one of the branches of the inquiry before us.

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And this brings me to the nature of this congressional legislation, and its effect upon the people of the territories. Does it enable them to exercise a portion of their natural rights, by providing for the organization of their government, as the acts of Congress passed for the purpose enable them to elect their convention, and form a state constitution? or does it confer upon them these rights, as well as the means of enjoying them? Do they belong to Congress first, and are they then doled out to the people as far and as fast as may suit the Congressional temper, or as some passing political struggle may permit? Had it not been for the lesson which this discussion has taught us, I should not have supposed there was a man in this broad republic who was not willing merely, but anxious to render to Cæsar the things that are Cæsar's —to attribute to the people the things that belong to them. But it is not so. The doctrines we have heard advanced upon this subject are precisely those which are at war with human freedom in Europe, and which have achieved a temporary triumph in Hungary, in Italy, and in Germany; and they are maintained and illustrated by the same, or by kindred arguments and observations. *We are sovereign; therefore we have the right to legislate over the territories in all cases whatsoever. The major includes the minor; therefore we, the greater, have unlimited legislation over the less. There can be no half sovereignty; therefore the territories have no rights. Congress is made to confer a power it does not possess, and thence it follows that these unfortunate communities may be sold into slavery*, and so on to the end of the chapter, from Poland to Oregon. And human rights are thus frittered away and sacrificed, not to constitutional principles, but to metaphysical refinements which might almost provoke the envy of the Stagyrite himself, and of the whole peripatetic school he founded. And in a similar spirit it is clearly proved that, as one man does not make a people, we must show by some demonstration how many it takes for that purpose, and how far apart they must reside to make two people; or it is vain to talk of their rights or their wrongs, or to secure the one or redress the other. He who undertakes to apply the square and the compass to human rights, natural or political, will find he is dealing with a subject beyond his reach, and which has eluded many a mightier grasp than his own.

And we are asked, where did the people of the Territories get the right to legislate for themselves? Where did they get it? They got it from Almighty God; and from the same omnipotent and beneficent Being who gave us our rights, and who gave to our fathers the power and the will to assert and maintain them.

I am not speaking of a revolution. This is a just remedy for violated rights. But I am speaking of a right inherent in every

community--that of having a share in making the laws which are to govern them, and of which nothing but despotic power can deprive them. That power in Europe is the sword. Here political metaphysics come to take its place. The people of the Territories get the opportunity of enjoying this right of government, of bringing it into practical operation, from Congressional interposition, and they then possess it with no other limitations than those arising out of the Constitution and of their relations to the United States. Their powers of legislation embrace all the subjects belonging to the social condition. There is no act of Congress respecting any of the territories which undertakes to enumerate the various objects of legislation, and then to confer jurisdiction over them. The whole power is conveyed, with the very few exceptions I have stated, and these are expressly withheld. The only one, indeed, I now recollect, though I do not speak positively, except general provisions for the security of private rights, is the unconstitutional clause prohibiting slavery: and it follows, from these views, that the territorial legislatures possess full authority over all the concerns of life; over the relations of husband and wife, of parent and child, of guardian and ward, and, if the interposition of Congress is unconstitutional, over the relations of master and servant, including the condition of slavery. Hence, then, the objection we have so often heard repeated, that these legislatures cannot act upon this subject, because Congress, having no power itself, can grant none for that purpose, is destitute of any real foundation. If, indeed, there is any constitutional prohibition, direct or fairly implied, which opposes their exercise of this power, then of course it is withheld from them. As that question is not in my way, I shall not turn aside to seek it, but shall content myself with saying that I see no such prohibition, and that I believe the people of the Territories have just the same rights in this respect that the people of the States have; and that it is a part of their power of legislation, of which they cannot justly be deprived. Let him who seeks to deprive them of it turn to our great charter, and put his finger upon the restriction.

But, sir, I may well appeal to those who find in the Constitution, or out of the Constitution this power to control the Territories by the Wilmot proviso, whether it is a power that ought to be exercised under existing circumstances.

Here is one-half of a great country which believes with a unanimity perhaps without a parallel in grave national questions, that the Constitution has delegated to Congress no such power whatever. And there is a large portion of the other half which entertains similar views: while of those who see in the Constitution sufficient grounds for legislative action, there are many who admit, indeed probably there are few who deny, that the question is not free from serious doubts.

Besides the want of constitutional power, there are at least fourteen States of the Union which see in this measure a direct attack

upon their rights, and a disregard of their feelings and interests, as injurious in itself as it is offensive to their pride of character, and incompatible with the existence of those bonds of amity which are stronger than constitutional ties to hold us together. No man can shut his eyes to the excitement which prevails there, and which is borne to us by the press in countless articles coming from legislative proceedings, from popular assemblies, and from all the sources whence public opinion is derived, and be insensible to the evil day that is upon us. I believe this Union will survive all the dangers with which it may be menaced, however trying the circumstances in which it may be placed. I believe it is not destined to perish till long after it shall have fulfilled the great mission confided to it of example and encouragement to the nations of the earth who are struggling with the despotism of centuries, and groping their way in a darkness once impenetrable, but where the light of knowledge and freedom is beginning to disperse the gloom. But to maintain this proud position, this integrity of political existence, on which so much for us and for the world depends, we must carefully avoid those sectional questions so much and so forcibly deprecated by the Father of his Country, and cultivate a spirit of mutual regard, adding to the considerations of interest which hold us together the higher motives of affection and of affinity of views and of sympathies. Sad will be the day when the first drop of blood is shed in the preservation of this Union. That day need never come, and never will come, if the same spirit of compromise and of concession by each to the feelings of all which animated our fathers continues to animate us and our children. But if powers offensive to one portion of the country, and of doubtful obligation, to say the least of it, are to be exercised by another, and under circumstances of peculiar excitement, this Confederation may be rent in twain, leaving another example of that judical blindness with which God in his providence sometimes visits the sins of nations.

Now, sir, as a mere practical question, is the legislative adoption of this proviso worth the hazard at which it alone can be secured—the obstacles and dangers I have briefly alluded to? There should be great advantages, inestimable indeed, to be gained before such a measure is forced upon the country. Can any man say that they correspond at all with the magnitude of the evils which must follow in their train?

For myself, sir, I do not believe that the slightest good will result, or would result, under the most favorable circumstances, from this Congressional interference with the rights of the people of the Territories. The object avowed is to prevent the introduction of slavery. Can it go there, even if left without this prohibition? I believe it cannot; and I believe there are very few, here or elsewhere, who think it can.

This view of the subject I had occasion to announce some two years since, together with the considerations, political and geo-

graphical, which led to the opinion. Time and experience have come to confirm all that was then anticipated, though certainly sooner and in a more imposing form than could then have been even conjectured. By far the most valuable portion of our Mexican acquisitions has organized a State government, and will, it is understood, soon present itself for admission, with a fundamental prohibition against the existence of slavery. Looking at the condition of New Mexico, at its products, its geographical position, the character of its inhabitants, whether natives or emigrants, and to the legal fact that slavery is now excluded from all that region, I think the most zealous advocate of this prohibition must admit that without it the country is as sure to be free from slavery as with it. For myself, I do not believe that if you were to pass a law establishing slavery in the Santa Fe country, or in Deseret, to adopt the new nomenclature, it would ever go there. More powerful considerations than your legislative action would control this question—considerations of profit, arising out of products which can alone render this kind of labor valuable, and which is sure to arrest it, in the cotton-growing and sugar-making regions, instead of permitting its emigration to higher latitudes, whose products require less labor, and by their distance from market must always be cheap and abundant.

I refer to these circumstances, not as influencing my own action, for with my views of the constitutional defect of power, I am precluded from entering into any other considerations; but as appealing to those who, finding the necessary authority, seek to exert it, in order to prevent the introduction of slavery into the new acquisitions. Nor have we any right to anticipate that this view, however correct it may be, will reconcile the South to abandon their objection to this measure. All experience shows that a controversy like this, which has reached its present condition, under circumstances so imposing, where great questions of right and of feeling are involved, is maintained without reference to its *utilitarian* result. And there is no better illustration of this truth than the history of our own revolutionary struggle presents; where the principle itself, far more than its immediate practical application, roused a continent to arms.

The Wilmot proviso is urged upon the ground of its expediency. It is opposed upon the ground of its unconstitutionality. Those who urge it may well abandon it, when circumstances show that the measure is dangerous in itself, or profitless in its result. Those who oppose it cannot change their conviction of right, and that portion of the Union which considers itself peculiarly affected by it will not change the conviction that its feelings and interests will be sacrificed in violation of the great compact which makes us one political family.

Now, sir, I repeat, is the contest worth the cost? To place this barren, and, as I believe, unconstitutional proviso on the statute-book—is that a recompense for the wounds that would be inflicted,

and the feelings that would be excited, whose disastrous effects no right-minded man can contemplate without the most serious apprehension? The oldest among us may live to see their commencement, the youngest may not live to see their termination. For myself, I will take part in no such effort. I will minister to no such feeling. I will engage in no such crusade against the South, from whatever motives it originates. I will endeavor to discharge my duty as an American Senator, to the country and to the whole country, agreeably to the conviction of my own duty and of the obligations of the Constitution; and when I cannot do this, I shall cease to have any duty here to perform. My sentiments upon the Wilmot proviso are now before the Senate, and will soon be before my constituents and the country. I am precluded from voting in conformity with them. I have been instructed by the Legislature of Michigan to vote in favor of this measure. I am a believer in the right of instruction, when fairly exercised and under proper circumstances. There are limitations upon this exercise; but I need not seek to ascertain their extent or application, for they do not concern my present position. I acknowledge the obligation of the instructions I have received, and cannot act in opposition to them. Nor can I act in opposition to my own convictions of the true meaning of the Constitution. When the time comes, and I am required to vote upon this measure, as a practical one, in a bill providing for a territorial government, I shall know how to reconcile my duty to the Legislature with my duty to myself, by surrendering a trust I can no longer fulfill.

On the 25th of February, Mr. Foote moved the Senate that his resolution should be referred to a committee of six members from the north, and six members from the south, and one to be by them chosen, with instructions to exert themselves for the purpose of maturing a scheme of compromise for the adjustment of all the pending questions growing out of the institution of slavery, and to report by bill or otherwise. Gen. Cass supported this resolution, and also the subsequent proposition to refer the resolutions of Messrs. Clay and Bell to a like committee. He viewed the course proposed by Mr. Foote as offering one more opportunity of terminating the fearful controversy. He declared that he would vote for any measure that had the appearance of bringing the country into harmony upon the distracting subject of slavery. The question of reference was put to a vote on the 19th of April, and carried by a vote of thirty to twenty-two.

The committee to which this reference was made, was chosen by the Senate by ballot, and consisted of Messrs. Clay, Cass, Dickinson, Bright, Webster, Phelps, Cooper, King, Mason, Downs,

Mangum, Bell, and Berrien. On the 8th of May, the committee, by their chairman, made their report to the Senate, accompanying it with bills in accordance with their report.

The views and recommendations of the committee were in substance—First: That the admission of any new State or States, formed out of Texas, should be postponed until they present themselves for admission. Second: That California should be admitted forthwith, with the boundaries she had proposed. Third: That territorial governments, without the Wilmot proviso, should be provided for New Mexico and Utah, embracing all the territory acquired from Mexico, except that embraced within the boundaries of California. Fourth: The establishment of the northern and western boundary of Texas, and the exclusion from her jurisdiction of all New Mexico, for which a pecuniary equivalent was to be paid. Fifth: More effectual enactments of law to secure the prompt recapture of fugitives from labor, bound to service in one State, who may have escaped into another State. Sixth: That Congress should abstain from abolishing slavery in the District of Columbia, but should prohibit the slave trade within the District. The committee also proposed that the second, third and fourth measures should be contained in the same bill.

The bill providing for the admission of California, the establishment of territorial governments for Utah and New Mexico, and making proposals to Texas in regard to her boundaries, elicited much and able discussion for and against it. The union of so many subjects in one bill, created objections against it in the minds of some, who, otherwise, would doubtless have supported it; nor did its provisions entirely accord with the views of even those most disposed to support any reasonable measure calculated to heal the differences existing, and soften the asperities of sectional feeling; much less did it harmonize with the designs of the ultraists of north or south. A great number of amendments were offered, conforming the bill to the views of those who offered them. Propositions, increasing the conditions upon which California might be admitted, and restricting the powers of territorial governments, were offered. These Gen. Cass opposed, as well as the clause in the bill itself restricting those powers. He had assumed and ever maintained that the people living in territories, possessed the right

to regulate their internal concerns in their own way, subject of course to the limitations of the constitution. Upon the right of Congress to establish territorial governments, Gen Cass reiterated his opinions as set forth in the "Nicholson" letter. He argued that there was no express authority conferred upon Congress, by the constitution, to establish and regulate territorial governments. The absence of such grant was, because no contingency was foreseen by the framers of the constitution for the use of such power. The right to act at all, arises from the necessity of the case. Upon the acquisition of new territory, it is the moral duty of a country to take care that it is provided with a government suitable to its own institutions; the exercise of this power is only justified by necessity.

The opinion of Gen. Cass on this branch of congressional power, was, during the debate on the compromise bill, the subject of reference by most of the distinguished men who were opposed to his position. In reply to an allusion made to his doctrines, by Mr. Berrien of Georgia, at a later period in the debate, Gen. Cass further defended his opinion in a short and powerful speech of unanswerable argument A brief extract is here inserted.

"Mr. President: The Senator from Georgia, at the commencement of his remarks, made an allusion to the doctrine I have maintained in relation to the general power of Congress over the territories. I rise to put myself right—not to defend others from the charge implied in the assertion, that I am the only man in the Senate, and almost the only citizen out of it, who does not believe that this Government has full and unlimited power over these territories; though I trust there are many, both here and elsewhere, who have not so far forgotten the faith of their fathers, as to acquiesce in such a monstrous assumption of arbitrary power. Why, it is the very doctrine, and almost the very words, of the declaratory act of George III, which our fathers resisted successfully—first in argument, and then in arms—*that* HIS MAJESTY IN PARLIAMENT HAS THE RIGHT, BY STATUTE, TO BIND THE COLONIES IN ALL CASES WHATSOEVER. We went to war against this very assumption, invoking the great right of self-government, and hallowed the principle we fought for by success, and made it the very corner-stone of our institutions. And now, before all the generation of the men of the Revolution has passed away, we are called upon to declare that *our majesty (this government) in Congress has the right, by statute, to bind the Territories in all cases whatsoever.* And I am rather pointed at as a marked man, and as almost the only one, who, in this middle of the nineteenth century,

and in this republican land, does not bow the knee to this political worship. I trust—I am sure, indeed—that the Senator entirely misunderstands the sentiments of his countrymen, and that there is not a mere remnant, but a vast majority, who repudiate such pretensions, and who believe that internal legislation, without representation or natural affinity, is the very essence of arbitrary power. And a tremendous power it is. It is claimed and exercised at St. Petersburg, at Vienna, and at Constantinople, as well as at Washington; and no matter by whom claimed, or where exercised—whether by Sultan, Emperor, King, Parliament, or Congress—it is equally despotism, unsupported by the laws of God, or by the just laws of man. Whence do you derive such a power? Put your finger upon a single clause or word of the Constitution, if you can, which gives it to you. Such a terrible means of oppression should not rest on shadowy implications, or remote analogies, or on elementary words, employed by European writers. It should have a visible, tangible foundation. It should be written in characters of living light, that the oppressor and the oppressed may not be deceived as to the power of the one, or the degradation of the other. And yet among the fifteen reasons given for the exercise of this authority, there is not one, which, by any rational construction, leads to such consequences. Fifteen reasons for the support of a power, which half that number of words would have conferred beyond cavil or dispute! That very fact is enough to destroy the pretension. *Congress shall have unlimited power over the Territories.* This short and explicit clause would have spared us many an argument, even if it had not spared the rights of man. Instead of such a declaration, what is the fact? The Senator from Georgia says, that Congress is sovereign. This I utterly deny. Congress is vested with no attribute of sovereignty, as the foundation of legislative power, nor is the word itself to be found in the Constitution. It is perfectly idle to go to Vattel, or to the earlier or later writers upon the laws of nations, to seek there the attributes of sovereignty, or to assume, as their consequence, the existence of power in the Government of the United States. The people of the respective States are the true sovereigns of this country, and they possess all the rights, which, by the usage of nations, belong to that condition. You may go to the elementary writers to find what these rights are, but you must go to the Constitution to find how, and how far, their exercise has been confided to any department of the Government. If you find this delegation, you may act; if not, the people have reserved the power to themselves. You can declare war; this is one of the most important attributes of sovereignty. But you do not go to Grotius, or Puffendorf, or Vattel, for the foundation of your action; that you seek in the great deed of the American people. And if it were not there, you would be just as powerless to declare war, as you are to choose a king. Ours is a government of limited powers and of strict construction; and yet we so easily

depart from first principles, that here is a strenuous effort to clothe this delegated legislature with sovereign power, because sovereignty is an essential condition of an independent people."

Upon the general merits of the report and bill of the committee General Cass addressed the Senate at length on the 11th of June, 1850. His speech is replete with argument and illustration, and must convince every reader, that the course adopted by him on this great and eventful question, was dictated by the purest patriotism and most ardent attachment to his country, and her institutions, and a controling desire to preserve uninjured at all sacrifices, the glorious union of the states. Like most of the speeches of Gen. Cass, it contains a history of the subject to which it has reference, and though every reader of it may be unable to acquiesce in all its sentiments, he cannot fail to be instructed and enlightened by its perusal.

The consideration of the bill was further continued in the Senate. On the 31st of July, Mr. Pearce of Maryland, moved to strike from the bill all that related to New Mexico. This was agreed to by the Senate. Mr. Walker of Wisconsin, had previously moved to strike from the bill all except that part relating to California, but the motion was unsuccessful. Mr. Atchison of Missouri, who was pleased with only part of the bill, that providing a territorial government for Utah, moved on the 31st July, to strike from it, the provisions relating to California, and the Senate by a vote of thirty-four to twenty-five agreed to the motion. The bill was thus left containing simply the provision of a territorial government for Utah, and in that shape passed the Senate on the second of August ensuing. The other subjects embraced in the bill reported by the committee, viz: the admission of California, the establishment of a government for New Mexico, and the proposals for the establishment of the boundaries of Texas, were subsequently passed by the Senate in separate bills. The admission of California was opposed by some of the most eminent Southern Senators. The action of the people in forming a constitution was assumed to be unauthorized, and that the assent of Congress to their proceedings by admitting California into the Union, would be unconstitutional. Mr. Berrien of Georgia, in opposition to the act of admission, argued that the people of California had no right to organize themselves into a state government—that the proceeding was en-

tirely without precedent. The fallacy of this argument was exposed by Gen. Cass in a masterly speech from which the following extract is taken :

The Senator from Georgia has said, that the people of California had no right to organize themselves into a State Government, and that there is no instance of such a proceeding in the history of our territorial establishments. So far as respects the creation of a State government and the application for admission into the Union, independent of the action of Congress, there are several such cases in our political annals. So far as respects the organization of a political system itself, the creation of a government, no such precedent indeed exists; for never before did Congress utterly neglect its duty, and leave a new and remote acquisition without organization, exposed to all the evils of anarchy, and to be saved only by their own wisdom and firmness. Here is where all parallel and precedent cease; nor do I believe there is another country on the face of the earth, where such legislative neglect of great interests can be found. And are we to be conducted through some politico-metaphysical process of reasoning, and asked to prove, step by step, the right of 700,000 American citizens to provide for their own social existence, and to apply for admission into this Union, as you would require proof to establish the ownership of a home? No, sir, there are far higher considerations than these involved in such a relation, and which appeal at once to the head and heart of every American. The Senator has himself said, that these people were justified in forming a government, but that they should have formed a territorial and not a State government. Well, sir, this concession is worth something; for it admits the validity of their political organization, and their right to frame laws and to administer them. And what reason does the Senator urge why the political action of the people should have been confined to one of these forms of organization, and not extended to the other? There is, of course, no legal or constitutional restraint, and whatever may exist must be imposed by some overruling principle, deduced from our institutions. The people, says the Senator, in forming a government, had no right to go further than the actual necessity required, and should have contented themselves with the smallest possible modicum of freedom. I can understand why a government, exercising delegated and limited powers, should be limited in their exercise by the necessity, which calls them into action. But what principle of human right or human reason requires a people, necessarily called to institute a government, to content themselves with the least possible degree of liberty, compatible with the actual peace of society, I confess my utter inability to discern. The rights are their own, not ours; and if we compel them to act, they must judge what their interest requires. I do not contend that they have an actual claim to admission into the Union. I do not deny that it is our right and our duty to look

to their circumstances, and to receive or reject them, as their numbers and condition may justify. If the number or condition of the people of California is not such as to justify their admission, let it be shown, and let their application be refused. But I do deny, that the nature of their political organization, brought about by our neglect, furnishes any valid reason for excluding them from this great Confederacy, into which they are so desirous to enter. But, after all, what could they have done, but precisely what they did? They had to organize a government; that the Senator from Georgia admits. And how were they to organize a Territorial Government, which necessarily, *ex vi termini*, derives its powers from the United States? That is the very essence of its existence, and that existence, it could only acquire by an act of Congress; and because Congress would not pass any act upon the subject, was precisely the justification for the proceeding. How were they to possess a Territorial Governor or Judges, or to be placed under the control of the Federal judiciary by their own act? And without these bonds of connexion, and others like them, how was their Government to become a Territorial one? It could not be, sir—it could not be. Their *de facto* government was necessarily derived from themselves, and depended on themselves; their relation must be defined by the action of Congress; and, under these circumstances, can it be seriously contended, that they had no right to come here and ask admission into the Union, and that we ought to reject them because they had not a Territorial Government? Why, sir, this is no way to deal with human rights. You cannot stand up before the people of this country and maintain such a position. You are at war with those everlasting principles of human nature and human freedom, which no power can destroy, and which, when taken from a people, are taken by force and not by right.

The Senator from Georgia says it is true there have been delay and neglect in the organization of a government for the people of California, but that this has been owing not to her, but to you, and you, members of this body. And pray, Mr. President, what has this to do with the practical effect of congressional inaction? We are not inquiring into the causes of the dissension among Senators and Representatives, which have produced this unhappy result, but into the present condition of things, and into the effect, which this neglect has produced upon our Mexican acquisitions. We are, or should be, looking to the just claims of California, and not to any retrospect of our own errors. The Senator says that those associated with him in his views were anxious to establish governments, but that their efforts were not excepted. Well, sir, this is just what members opposed to his views say in return: You are to blame for this state of things, for you would not accept the offers we made of co-operation. I need hardly say, my views coincide with those of the Senator from Georgia, upon the object of the Wilmot proviso; but still I do not shut my eyes to the fact, that in the consideration of the claims of California, mutual recrim-

ination here conduces neither to our own harmony, nor to her interest. If we should go on in this way till doomsday, our labors would be as barren, as they have been thus far during the session. The true question is, what we ought to do—not what we have left undone, and why we have thus left it. The Senator denies that California is a State; while, for my part, I consider her as truly a State as any on the face of the earth. The Senator from Maine, (Mr. HAMLIN,) some time since, recalled a remark upon this subject, which leaves no other answer to be desired. He said it was men that made states—and it is so; not trees, nor lands, nor gold mines, but men, for whose use all these objects were created. And as to entering into the metaphysics of this matter, and into the solution of all the nice questions, which ingenuity may raise, respecting the transition of a community from one political condition to another, and the precise moment—ten minutes after twelve o'clock, for instance—when its chrysalis state terminates, and its transformation is complete, let him pursue these investigations, who has a taste for them—I have none. For one, I shall deal with the principles of our own institutions, and with the rights of human nature in their plain, direct application to the condition of American society, wherever it may be. And doing so in this instance, I find the Congress of the United States has neglected one of its most imperative and important duties—the institution of a government for California; and having driven the people to do for themselves what we ought to have done for them, we have now no right to condemn their course and refuse their application, because they did not establish a territorial government, which alone could be established by the authority of Congress.

The bill "to provide for the more effectual execution of the third clause of the second section of the fourth article of the Constitution of the United States," generally known as the "fugitive slave" bill, was taken up in the Senate, August nineteenth. As one of the measures of compromise calculated to restore harmony and good feeling, Gen. Cass supported the bill. The bill under consideration was one introduced in January preceding by Mr. Mason of Virginia, and amendments had been recommended by the committee on the judiciary and by the select committee of thirteen. The mover of the original bill offered a substitute for it, to which various amendments were offered and debated. The bill being finally perfected had its third reading and passed the Senate on the 24th of August. In supporting this measure Gen. Cass urged that it should conform to the main features of the act of 1793, upon the same subject, and that the changes which experience had shown to be necessary should be introduced by way of amendment to the

law of 1793. The principles sustained by Gen. Cass, were: First—the right of the master to arrest his fugitive slave wherever he may find him. Second—His duty to carry him before a magistrate in the State where he is arrested, that the claim may be adjudged by him. Third—the duty of the magistrate to examine the claim, and to decide upon it like other examining magistrates, without a jury, and then to commit him to the custody of the master. Fourth—The right of the master then to remove the slave to his residence.

The last of the measures known as the "peace measures"—the bill abolishing the slave trade in the District of Columbia—passed the Senate on the 16th of September. The House of Representatives concurred in regard to all these several bills and passed them.

The most beneficial results were anticipated from the action of Congress. It was hoped, and appearances seemed to justify it, that conciliatory measures, advised by the great statesmen of both parties, would have an immediate effect in quieting agitation, and calming the public mind to an acquiescence in the compromise measures of Congress. But, the adjournment of Congress was followed by increased excitement and more earnest and bitter discussion among the people and the public presses. The several "peace measures" formed themes for angry dispute, particularly the fugitive slave law, which, while it was denounced by northern ultraists as conceding too much to the claims of the south, was rejected, by the southern secessionists, as worthless. Yet it is impossible to believe otherwise, than that the course adopted was the best that could be devised. For it may well be asked, where could we look for counsel, if not to those very men, who had the matter in charge? If Clay, Webster, Cass, Douglass, and their co-laborers, for union and harmony, could not bring forward measures adequate to the exigency, we might well despair of ever having the controversy settled. Except in the State of South Carolina, public sentiment, in the southern States, was nearly equally divided upon the compromise measures, and there is ground for hope that both at the north and south, time and more deliberate reflection will satisfy all, that by those measures, the rights of every section of the Union have been respected, and a basis formed, upon which may be safely and securely built the hopes of the patriot—for the

perpetuation of the Union. To those men who, at this crisis, stood by their country, what a debt of gratitude and esteem is due. Their names will be cherished and their memories revered as the saviors of their country. And, how can a grateful people ever forget the labors of Lewis Cass, in that moment of tremendous excitement, when upholding the banner of his country, with that glorious motto inscribed upon it, "Our whole country—no sectional differences," he stood, calm and undisturbed, in the Council Hall of the nation, amid the storm and tempest of intense excitement—beating back the furious winds of disunion and civil war, and the sirocco blasts of infatuation and fanaticism. The full value of his services could only be realized through the direful experience of what might have been, had he not stood the unconquerable protector of his country—the contrast between our happy country, as she now is, and what she would be, were we looking on "the broken and dishonored fragments of a once glorious Union; on States dissevered, discordant, belligerent; on a land, rent with civil feuds, and drenched in fraternal blood!"

Not only in his place in the Senate, has Gen. Cass labored to preserve intact the integrity of the Union and unwavering obedience to the constitution, but among his fellow citizens, at public meetings, he has urged the duty incumbent upon every true patriot. At the public reception, tendered by the citizens of New-York, to himself and other distinguished members of Congress, in November, 1850, he addressed the assemblage upon the exciting topics that agitate the country. Adverting to the progress of the compromise measures, through Congress, the sacrifices made by all, to ensure their adoption, the setting aside political differences to accomplish the one great object, he remarked:—

"And where, in the long annals of mankind, do we find a people so highly favored as we are at this moment, when we seem to be struck with judicial blindness—almost ready, I may say, in the language of Scripture, to rush upon the thick bosses of Jehovah's buckler? The sun never shone upon a country as free and so prosperous as this, where human freedom finds less oppression, the human intellect less restraint, or human industry less opposition. And what overpowering object is before us, which would justify the sacrifice of all these blessings? Why is one section of the country arrayed against another, and why are men found in it who are both ready to sever our constitutional ties by the sword, and to

commit the future of this great republic to those dissensions whose consequences no man can foresee? Is there any advantage which disunion would make greater? Is there any evil it would make lighter? Any security for the present, or hope for the future, which would be increased by separation? None, none. I repeat, then, whence this agitation, this alarm, these excited feelings, these hard thoughts, which are spoken in hard words, and are fast leading to hard deeds? Why is it that the series of measures adopted at the last session of Congress, reasonable and equitable, under the circumstances, and approved by a large majority of the community, why is it that these have failed to calm the excitement, and to restore harmony and tranquility to the country? These various acts formed parts of one plan of compromise, and should be regarded as pledging the faith of every portion of the country to their faithful observance, and if they are so, in spirit and in truth, we may speedily look forward to that good old fraternal feeling, which brought us together, and which alone can keep us together. But, unfortunately, the public mind in the North has been much excited by the passage of one of those laws, that for carrying into effect the provisions of the constitution on the subject of fugitive slaves, and it has been misquoted and misrepresented with such a boldness of perversion, unknown before in our political controversies, that its repeal is loudly called for in one portion of the country, and feared, if not anticipated, in another. For myself, I believe the repeal of that law would dissolve this confederation, as certainly as the morrow's sun will rise upon it. I believe the South would consider it a dereliction of constitutional duty, which would leave inoperative a great constitutional obligation, and a gross violation of political faith, which would destroy all confidence for the future, and that they would seek their remedy by assuming an independent station among the nations of the earth. And believing this, I for one shall oppose its repeal.

I am among those who acknowledge the stability of the constitutional obligation to surrender fugitives from justice, and fugitives from labor. I am among those who believe that the constitution is a law high enough for American citizens, in the regulation of their civil rights and duties, subject to the exposition of the proper tribunals. And I am satisfied that the act of 1793, on the subject of fugitive slaves, as I have already taken occasion to say in the Senate, had become inefficient, and almost useless, and principally from the adverse action of the State Legislatures. And nothing could more strikingly demonstrate the truth of this proposition, than the fact stated by Mr. Webster, and confirmed by Mr. Quincy, that in the State of Massachusetts, where the opposition to the present law has been most general and violent, no fugitive slave has ever been surrendered since the adoption of the constitution. It is difficult to deal with such a state of things, and at the same time preserve our respect for those who seek to make political capital out of this agitation, so utterly unsuited to the occasion.

And what renders this course the more extraordinary, is the fact that it has never been shown, so far as I know, that one single person, not a slave, has ever been surrendered anywhere under the constitution. And yet, to read the violent speeches and essays upon this subject, one might suppose that the sending of free persons into bondage was an every day occurrence, which called for universal indignation. The recent disclosures which have been made since the new law went into effect, and which show a fugitive slave population in the non-slaveholding States, far beyond what any one had anticipated, is the best commentary upon the inefficiency of the former statutory provisions, and the best justification for the complaints of the South. What, then, my fellew citizens, do we want? We want the restoration of harmony and tranquility to every portion, however scattered, of this great republic, stretching from the shores that look upon Europe, to those which look upon the islands and continent of Asia. All want the peaceful enjoyment of our priceless institutions, and especially so do we, who are approaching our three score years and ten, who have passed our lives happily under this government, and who desire to cast off the fearful apprehension, that long as we have lived, we may yet outlive the constitution of our country. American citizens from the cradle, in God's good time, we hope to descend as American citizens to the grave, with the conviction, that after the religion of His Son, we leave to our children the richest heritage that ever descended to a people. We want no more discord, excitement, agitation, but that the legislation, the business, the intercourse of the country should go on as in our former days of true union, with all the prosperity which belongs to such a state of things. No more crusades against the South, no more public assemblies to denounce and vilify its people and its institutions, no more travelling missionaries to excite us against one another, and especially no more foreign travelling missionaries, who leave at home objects of misery quite enough to engage all their philanthropy, and exhaust all their charity, without coming here, to instruct us how to deal with a great question of constitutional duty.

We want the ministers of religion to preach the gospel of the meek and lowly Jesus, and not to convert their pulpits into political tribunes, to inculcate the doctrine utterly inconsistent with the existence of social order, that every man has a right to resist the laws of his country, when they differ from a standard he chooses to establish for himself, and of whose extent and obligations he must be the judge. This is not the example which was left us by our Divine Master and his apostles. And who can point to a single advantage which has resulted from all this violence, much, indeed, of it virulence? Has the prospect of emancipation in a single state, been advanced by it? No, no. By a natural spirit of reaction—a spirit which prompts all of us to resist foreign interference, the institution of slavery is more firmly established in all the slaveholding States than it was thirty years ago. In the operations of

an excited zeal, the fearful consequences involved in the question of emancipating three and a half millions of human beings, of a different race, habits, color—in everything, indeed, that constitutes human identity, living in the midst of another and superior caste, are utterly disregarded, and men rashly deal with such a subject as they would deal with a question of common domestic economy. Well it is for the South that this whole matter belongs to themselves. There it can only be left, and there the constitution has left it. (Applause.) If there are any of us in the non-slave-holding States so afflicted with a superabundant philanthropy that we cannot be easy without philanthropic action, if we will but stand in our own doors we can look around and see objects enough for our charitable exertion, without expanding and expending this sympathetic feeling, where the cost to us is as little as the advantage to others. It is a cheap way to be charitable, looking at its results upon the peace of the country. (Cheers.) We have been just told, in a public meeting at Worcester, by a modest English missionary, who has come over here to enlighten our ignorance, and stimulate our virtuous indignation, that the "idea of abolition had taken root, and could no more be put down than the waves of the broad Atlantic could be rolled back," &c. And this is precisely what the South fears, and what a large portion of the South believes; and what increases the fearful difficulty of their position, and of ours. They see in all these movements an eternal attack upon the institutions of independent States, and they foresee the time when the barriers of the constitution will be broken down, and this object pursued till accomplished or defeated by some terrible crisis. The South is committing no aggression upon the North. They do not claim the right to interfere in our domestic relations, and to mould them to their own pleasure instead of ours. I firmly believe that a great majority of the Southern people would be fully satisfied with the compromise measures of the last session of Congress, if these are faithfully adhered to, and this perpetual warfare upon them and their institutions terminated. They acknowledge the institutions of the constitution, and are willing to abide by them. Are we willing to meet them in this patriotic duty? I trust we are, fellow citizens. I feel sure we are. But we have passed the season of empty professions, and need action, vigorous, united, constitutional action. We have approached the brink of destruction, and if we do not speedily retrace our steps, we shall be precipitated into the abyss. These times and this question are above party. It is not a difference of opinion respecting modes of administration which divides us, but it involves the very existence of the confederation. Whenever, or wherever, or however this question comes up, let us forget that we are party politicians, and remember only that we are Americans. Let us follow the example of the venerable Kentucky statesman; doing battle for his country towards the close of a long and illustrious life, with all the intellect and energy of his youth, and forgetting his party associations

in the higher party of the constitution. Let us discountenance all further agitation of this whole subject. Let us rest upon the compromise, firmly and honestly. Let us satisfy the people of the South, that the constitution is a law, which is high enough for patriotic Americans, and that for us and our households, we will hold by our obligations. If we do this, all will be well. If we do not, we shall add another to the long list of nations, unworthy of the blessings acquired for them by preceding generations, and incapable of maintaining them, but none as signally so as we.

The words of admonition and warning expressed by Gen. Cass, in his admirable letter to the committee of the Democratic Union festival at Baltimore, in December, 1850, should be borne in mind by every peace loving and law abiding man, no matter what may be his political tenets.

"The Union," said Gen. Cass. "The Union is in danger." The evidence of this is borne to us by every breeze. Measures are advocated and urged, both in the North and South, with a zeal overleaping all discretion, and with a determination of purpose which, if it does not despise danger, disregards it, and which if not turned from its object by patriotism and moderation, will sound the knell of liberty in this republic. Let every true American come up to the good work. Let us all, whigs and democrats, unite in this holy duty, and rescue the ark of the constitution, from the perils that surround it. Let us preserve our respective principles of policy and administration; let the whig remain a whig, and the democrat a democrat; but in the great work of protecting their last and best refuge of human freedom from external and internal foes; let us join together, head and heart, and this end once obtained, we can go on our way rejoicing, to continue that contest of action and of opinion which seems essential to the free and constitutional action of our government.

I cannot be with you at your meeting. But the loss will be mine, for I am sure there will be a demonstration of affection and attachment to the Union which will gladden the heart of the patriot, and which will send on the decree, already, I trust, gone forth from the bosom of this great community. *Let us live together as friends, as brethren, as members of one vast family, where the rights and interests of each are sacredly regarded and protected by the power of all. Let us be one people, with one country and one government, and let us have no other struggle but for the com-*

mon glory and common prosperity of this great Confederation, whose boundaries are already swept by the breezes that come from the Atlantic and Pacific oceans.

The action of Gen. Cass, on the slavery question, received hearty approval, not only from the democracy of Michigan, but from the friends of union and constitutional rights every where in the United States. He was hailed without distinction of party, as one of the saviors of the Union. The country was for some time in a most perilous condition, and had there been other and less firm and patriotic men in the Senate of the United States, the result must have been disastrous to the confederacy. A crisis had been reached, where the perpetuity of our Union seemed to depend solely on the deeds of a few statesmen whose decision would either quiet the fierce excitement, or add to its fury by uniting with it, the experiment of disunion. The incidental questions of public policy, arising from the existence of slavery, have for years past afforded a tempting opportunity to selfish and ambitious demagogues to raise a storm which has rocked and tossed the ship of State upon a wild sea of agitation, which, but for the sacrificing endurance of a few unyielding pilots must have finally overwhelmed it. They faced the storm, and foremost among them, from the first moment of threatning danger, stood the venerable Senator from Michigan, amid the storm and tempest guiding the bark he had in charge, safely into port, despite the southern hurricane of nullification and disunion, and the northern blasts of abolition and fanaticism.

There was a moment in that intense excitement when the storm had nearly reached the height of its power, when the discordant elements of nullification, freesoilism, and abolitionism, thought to obtain the victory over the veteran helmsman, but they were driven back, beaten and discomfitted. At the time of the election of Gen. Cass by the Legislature of 1849, an attempt was made to defeat him. A mass of heterogeneous opposition was arrayed against him, with strength which would have overwhelmed any one less pure in principle, or infirm of purpose. But the remembrance of his patriotism, his efforts for the safety of his country, proved his shield and buckler. He triumphed over the combined factions which sought his defeat. They were able, however, to hamper his

free action by a set of resolutions of instruction, expressive of opinions repugnant to the position he had maintained. But the triumph was but momentary. At the succeeding session of the Legislature, the shackling resolutions were repealed, and Gen. Cass left free to act as his judgment should dictate.

The men who bound him down by instructions, which he could not conscientiously obey, retraced their steps, satisfied that they had been guilty of great wrong to their country, their Senator and themselves. It was fortunate for the destiny of our country, that the Legislature of Michigan, before it was too late, corrected the mistake that it had made. Gen. Cass would not have disobeyed the instructions he received, nor would he have done that violence to his own opinions which they demanded. He would have returned his trust to his constituents, and perchance his place might have been occupied at the very moment of extreme danger, by one less unyielding to the momentary and unsound impulse that dictated the instructions. But a still greater change was yet to occur, bearing with it a more triumphant vindication of his statesmanship and patriotism. His term as Senator expired with the Congress of 1850. The whole sentiment of the country asked for his re-election, and the Legislature of 1851, with an unanimity unprecedented, selected him on the first day of the session, for the ensuing six years. Their choice received the warmest approbation from the national democratic party, and his whig opponents secretly rejoiced at his return to the Senate. The congratulations which were spontaneously offered to the democracy of Michigan for this glorious tribute of attachment to the true principles of the party, were received with inexpressible pleasure. They felt as if they had in part paid the immense debt of gratitude due him, a debt which can only at most be partially discharged by his elevation to the highest honors of the Republic. Few indeed will deny that his moderation and firmness—his conciliatory policy, guarded by strict adherence to constitutional provisions and compromises, conjoined with the efforts of other distinguished statesmen, averted the danger which threatened our Union.

The democrats of the nation cannot forget how unfalteringly he bore at the late Presidential contest the standard of their party, with that glorious sentiment of his own heart—"Our whole coun-

try—no sectional prejudices"—and that, although the eagle of victory did not then rest upon our flag, yet the stout hearted bearer kept it "full high advanced" beyond the reach of the motley crew who would have trailed it in the dust and dirt of sectional agitation and the filth of abolition. The defeat of the democratic party in that contest, is one of those events which cannot be accounted for, by any system of political deduction, founded upon ordinary premises, but must be ascribed to a general prevalence of misapprehension—perhaps indifference. The result should teach a salutary lesson, which every democrat should carry inserted at the head of his political creed, that "eternal vigilance is the price of success."

CHAPTER XVIII.

Gen. Cass' acquirements and literary standing—His power as a writer—His command of language—Contributions to the Reviews—His sketches of Indian character—His exposure of the frauds and inaccuracies of certain writers of Indian History—His account of the battle of New Orleans—His travels in the East—Extract from North American Review—His addresses on several occasions—Extract—Extracts from his address before the New England Society of Michigan—"France, its King. Court and Government—Extract from address before the Agricultural Society of Michigan—His personal appearance, &c.—Conclusion.

The more immediate object of this work is to present in connection, the principal events in the life of Gen Cass, which have marked his career as a public man, on the field of battle, in the Cabinet, at a foreign Court, and in the halls of legislation. In closing this sketch of his public life, a brief mention of his literary productions will serve to show that his pen has not been confined exclusively to the advocacy of political theories; and that even amid the labors of the camp, the treaty ground, or the diplomatic circle, he has found time to add to the literary wealth of our country, and enrich its stores by giving to the public his views and impressions on subjects about which they have felt more than ordinary interest. His essays and reviews exhibit a most profound and extensive acquaintance with the subjects of his research, and his reflections are clothed in language pure, comprehensive and definitely expressive of the idea of the writer. Certainly no better illustration of the strength and power of the English language, can be found, than in his writings. For felicity and clearness of expression; for using just the right word in the right place, and an entire absence of all "fantastic barbarism of expression," they hold a high rank in the world of letters. His contributions to the North American Review, in the days of its commanding influence and superiority, added as well to the celebrity of that magazine, as to the dissemination of correct information upon subjects which formed the text of his criticisms.

The most accurate and reliable account of the condition, traits

of character, and philological peculiarities, of the Indian tribes is to be found in the articles of Gen. Cass, published in the North American Review during the year 1827, reviewing the works of Hunter, Halkeld, Heckwelder and Rawle, on Indian customs and manners. The gross misrepresentations of the first named writer, the results of ignorance and a design to create odium against the United States, were exposed in a masterly manner, by Gen. Cass, in the January number of the Review, for 1827; and the errors and inaccuracies of the devoted missionary, Heckwelder, caused by his close intimacy with, and fondness for, one single tribe, investigated and corrected in a spirit of enlightened criticism seeking to impart truth, while it regretted the necessity of counteracting the effects of the erroneous opinions and prominent errors of the zealous and self-sacrificing Moravian. Additional contributions to knowledge of Indian affairs, and a correct understanding of the policy of the United States, in regard to the Indians, were made by Gen. Cass in elaborate communications to the same Review, in the years 1828 and 1830, in which the relations of the government with the aborigines are fully explained and investigated. The statements of the London Quarterly Review, upon which it based its censures of the treatment which the Indians received from the United States, were shown, by indisputable proof, to be equally destitute of courtesy and truth. The siege of New Orleans forms the subject of an article from the pen of Gen. Cass, published in the American Quarterly Review for January, 1835—and, although the account of a British officer, of the attack on New Orleans, is placed at the head of the article, the reader will find the article to be a separate and distinct narrative of that brilliant event.

When Gen. Cass accepted the office of Minister to France, it was with the condition, that if the duties of his station would permit it, he should fulfil a determination previously made, of visiting the lands of ancient story and classic history. Opportunity favored this determination, and Gen. Cass visited the countries famed in history as the theatre of great events, sacred and profane. He ascended the Nile—traversed the Holy Land—saw the Mount of Olives—the garden of Gethsemane, Mount Gihon, and the pools and fountains around Jerusalem, as recorded in Bible history. It

is to be regretted that he has not given to the world a continuous account of his travels in the East.

The following extracts from an article in the North American Review, will afford an example of Gen. Cass' power of description :

* * * "This great sandy desert extends along the Mediterranean, at a short distance from its shores, and reaches to the Red Sea. It obtains, very soon, a considerable elevation, and then presents the aspect of an irregular plane, varied by hills and hollows. A traveler in this region would see before him a chain of sand hills, extending across the line of his route, and, on attaining their summit would see beneath him an immense valley. Whether approaching by the Lybian or the Arabian desert, the aspect would be the same. He would stand upon a sandy ridge, with all that the imagination could conceive most desolate behind him, and before him one of the most magnificent prospects ever presented to human eyes. He would survey a deep valley, bright with vegetation, and teeming with a depressed but laborious population, engaged in the various labors of agriculture. He would see opposite to him another eternal rampart, which, with the one he stands upon, shuts in this valley, and between them a mighty river, flowing in a winding course, from the foot of one chain to the other, furnishing lateral canals, which become fountains, whence the water is elevated by wheels and buckets of the rudest structure, worked sometimes by men and sometimes by cattle, and no doubt identical with the process in use in the days of Sesostris ; and this water is conveyed over the surface, and communicates that wonderful fertility, which formerly rendered this country the granary of the world, and yet endows it with a power of production unknown even in the most highly cultivated parts of Europe. And this river is the Nile, and this valley is Egypt ; the Egypt of the enslaved Israelites, and of their proud task-masters ; the Egypt of the Pharaohs, of the Ptolemies, and of the Mamelukes; the Egypt of On, of Thebes, of Memphis, and of — Damietta ; the Egypt of early civilization, where science and literature were first cultivated, and whence they were sent to enlighten the nations of the west, and the Egypt of the Fellahs, and of the grossest ignorance and misery.

* * * * *

Jerusalem has been a fruitful theme in the journals of the travelers. Tradition has marked the spot of every interesting incident, which the Scriptures record as having occurred within its walls. Credulity and skepticism have equally examined and discussed these legendary tales. Men of the ardent temperament of Chateaubriand and Lamartine, believe every thing ; while others, like Volney, whose mental temperament is different, believe nothing. *Probably not one stone of ancient Jerusalem remains in its place.* They point to a part of the foundation of the walls, facing the valley of Jehoshaphat, where are some large blocks, apparently

of an earlier age than the rest of the structure, and consider these as the relics of the ancient city. But this is a mere conjecture, resting upon no established proof. Jerusalem has been swept with the besom of destruction. The imprecations against it have been fulfilled. The Assyrian, the Greek, the Roman, the Crusader, the Turk, the Egyptian, have marched over its walls, and established their camps in its holy places. Superstition, fanaticism, revenge, have conspired to sweep away its monuments and to make it desolate. The great features of its topography no human power can change. They have been imperishably marked out by an Almighty hand. Its site occupies the projecting point of a high hill, bounded on the east by a deep, narrow valley, successive portions of which were called the valley of Kedron, of Jehoshaphat, and of Siloam, in the bottom of which flows the brook of Kedron; and on the southwest and south by the valley of Sihon, where trickles the little stream called Gihon. These rivulets unite, a short distance below the pool or spring of Siloam, and wind their way among broken mountains to the Dead Sea. On the northwest the city joins the table land of the country, and it is in this direction, that it has been successively enlarged and contracted, as prosperity or adversity augmented or diminished its population. And, although it has been supposed by some writers, that the ancient city extended across the valley of Gihon, yet the conjecture has been advanced solely to render the legendary sites of some of the miraculous events which occurred within its walls, consistent with Scripture narrative, and is contradicted by the nature of the ground; for it is unreasonable to suppose, that the advantage of a strong position would be abandoned by enclosing a deep valley, when there was space enough on the table land for indefinite extension.

* * * * *

The reverberation of the sun's rays gave to the vale of Siddim an equatorial heat in the month of August, and we raised ourselves from the fount of Elisha, and resumed our route to the Dead Sea, before the dawn of day, to avoid, as much as possible, the noontide sun. We traversed much of the space between Jericho and the shore of the lake in the night, and a most impressively mournful ride we had of it; over barren sands, covered here and there by low, stunted bushes, every now and then striking us in the face, to warn us, as it were, that the home of the wild Arab was around us. And, as the streaks of morning light dawned over the mountain of Moab, a most extraordinary spectacle presented itself to our eyes; an army appeared upon the dreary, deserted sand, between us and the dark water, which stretched away beyond our view, lost in the high ridges, which overhung it. No deception was ever more complete; for long ranks of soldiers seemed drawn up, marching and countermarching in all directions, with great regularity. It looked as if the genius of the place had embodied his forces, to bar all access to his gloomy dominions. And it was only as the day advanced, and as we approached the shore, that our

formidable enemy assumed the peaceable shape of countless flocks of birds, of the heron species, who, the Arabs say, come to pass the night upon the sand, and in the day seek their food among the reptiles in the mountains. The immensity of their numbers exceeded all imagination; and, if the regions of Palestine are fertile in nothing else, they must be most prolific in snakes, if the Arab *natural historian* may be trusted. And this is the Dead Sea, and below these dark waters are the sites, perhaps the ruins of Sodom and Gomorrah, such as "when the smoke of the country went up, as the smoke of a furnace." There is a tale, that nothing living, not even a bird, can ever cross this sea. But there is no need of imaginary stories to heighten the desolation of the scene, and we, as well as other travelers, can testify to its inaccurary, by our own observations. We believe, however, that its waters are unfavorable to animal life; and, though a shell or two may be occasionally picked up upon the shore, yet these have been probably brought down by the Jordan. The water is excessively bitter and nauseous; and, if additional evidence were wanting, we also could testify to its great gravity, and to the buoyancy of the human body, when immersed in it. It is only by much exertion, and for a very short time, that any one can get and remain below the surface.

We went from here to the Jordan, and struck the river, where tradition says, the children of Israel passed over, when they first entered the Land of Promise. On the west side is a low bottom, and on the east a high sandy bluff, and the shores of the river are covered with aquatic bushes. The water was thick and turbid, and the current rapid, and too deep to be sounded, "for Jordan overflowed all his banks, all the time of harvest." And here crossed the Jewish nation, over this turbulent stream, "on dry ground, until all the people were passed clean over Jordan." And we followed their route to Jericho, the frontier city of the Canaanites, where "the people shouted with a great shout, that the wall fell down flat, so that the people went up into the city, every man straight before him, and they took the city." There is no city now to take, nor are there any walls now to fall. There are a few miserable hovels, made of rude stones and mud, and the ruined walls of a building of the middle ages, where the wretched Arabs burrow, rather than live. Jericho has disappeared as completely as her rival cities, which sunk before the wrath of the Almighty. And it requires an effort to be satisfied, that here the great miracle, which attended the entrance of the Jews into Canaan, was performed, though the truth of the denunciation is before the eyes of the traveler: "Cursed be the man before the Lord, that raiseth up and buildeth this city Jericho."

On various occasions Gen. Cass has delivered addresses before scientific and literary associations and other societies, most of which have been published and laid before the public. In September 1829, he delivered a discourse at the first meeting of the

Historical Society of Michigan; and also one in 1836, before the American Historical Society of Washington, of which he was President. In August, 1830, he accepted an invitation from the association of the Alumni of Hamilton College, to deliver an address at their anniversary meeting. He also delivered an oration on the Fourth of July, 1843, at Fort Wayne, Indiana, at the celebration of the completion of the Wabash and Erie canal.

It is presumed that the reader will ask no apology for the insertion here of the annexed portions of the address delivered by Gen. Cass before the New England Society of Michigan, on the twenty-second of December, 1848. The description of the impressive ceremony, when the Pilgrims were about to leave the shores of Holland, is unequalled for beauty of expression and fitness of language to the scéne portrayed.

"And now came the embarkation; the first act in the great drama of their pilgrimage. The May Flower—I pass over the history of her consort, as she did not reach America—the May Flower, destined to become their ark across the ocean, was ready to receive them at the small port of Delft, in Holland. The little colony, male and female, youth, manhood and old age, marched in solemn procession to the strand, and here occurred an impressive scene, one of those incidents, which mark the character of events, and leave their impress upon history, during all time to come. The departing band kneeled down upon the beach, and their venerable pastor blessed their enterprise, and commended all, with all their interests, to Him, who made the sea and land, and conld save them from the perils of the deep, as he saved his chosen people, and guided them in his own miraculous path through the waters of the Red Sea."

* * * * *

"And on the strand of the ocean, in that temple not made with hands, was the last offering of the Pilgrims. The old cathedrals of Europe are imposing structures, powerfully affecting the human imagination, and preparing the human mind for the solemn duties of Religion. Their dim light, mellowed by the stained glass, painted with interesting scenes from Biblical story, their lofty arches, their clustered columns, their long aisles, their silence and their magnitude, and the centuries that have passed over them, with the memory of the numberless host, that worshipped there and have now gone to their account, all these impress the faculties with awe, and while they shut out external nature, they invite man to the contemplation of himself and of his relation to his Creator. But the shore of the ocean was the cathedral of the exiles. They had the blue firmament of heaven, God's own canopy, over them, their altar was the tide worn beach, where land and water had met

and contended for mastery since the creation; around them was the coast of Europe, they were about to leave, and the broad Atlantic, they were about to cross, rolling its surges upon the strand, and mingling its mighty voice with the voice of the preacher; and between them, their wives and children, and the forests of the new world, was nothing but the sky and the water, and the wonders of the great deep. And thus they prayed and departed.

* * * * *

"The chances and changes of the world are written in living characters, upon every page of human story. Sometimes its mutations, in the stern reality of truth, are stranger than the wildest fiction of Eastern imagination. I have often conversed in early youth, with a venerable relative, then at the extremity of a long life, who was a cotemporary of the first child, born to the Pilgrims, after they landed upon this continent. What an almost overpowering image of the progress of this federative empire, does the simple fact present, that a single life measures the space between the oldest born of one great portion of the new race destined to occupy this Hemisphere, and the twenty millions of people, who are now fulfilling that mighty mission, commenced in weakness, but consummated in power. Between the little band of self-expatriated christians, seeking a home, they knew not where, and the means of life, they knew not how, and the great nation which has none to make it afraid, and which stretches its vast domain from the Atlantic to the Pacific, and almost from the Arctic Circle to the Northern Tropic. What contrast can be stronger or stranger, than that, which this day in its annual revolution, presents to the observer; commemorated. as it is, wherever the sons of New England are found; and that wherever is everywhere, and in regions far beyond the world of the Pilgrims, and that which it presented, when the rock of Plymouth received the stranger from the bosom of the ocean, and became his pedestal in a New World. It was the end of his pilgrimage. It has now become the object of ours. A shrine of patriotism, hallowed by the act it witnessed, to which our countrymen will hereafter come up, and standing where the Pilgrims stood, recall the days, and the deeds, and the dead, which make that mass of unhewn granite one of the high places of the earth. It needs no sculpture to give it interest. No inscription to carry down to ages yet unborn the memory of the scenes which have passed over it, and which will forever "live in remembrance, and grow green in song." And I have stood upon this relic of the olden time, and have called back the day of debarkation, and the humble scene, which has made it immortal. And I have stood in prouder places; prouder in their renown, for their names are written on the deathless pages of Homer and Herodotus. I have stood upon the plain of Troy, and the field of Marathon; and have recalled the departed glories of the early ages; but if these names of mighty import excited my imagination, the associations of the rock of our fathers touched my heart, and I bowed in gratitude to

Him, who provided a home, *our home*, for the Pilgrims, and guided them till they found it.

Gen. Cass was also the writer of an article entitled "France, its King, Court, and Government," published a few years ago in the Democratic Review, and since then, in the form of a volume. The influence of that article in securing the good will of the French Court and Government towards the United States and their Representative, has not, perhaps, been appreciated to its just extent.

The latest literary effort of Gen. Cass, was an address delivered in September 1851, before the Agricultural Society of the State of Michigan. This address has been published in nearly all the newspapers of the country, and has elicited from all, unqualified admiration. The acquaintance manifested by the writer, with the minutia of agricultural science, is indeed astonishing, when it is remembered in what different pursuits he has passed his life. The address abounds in suggestions for improvement in agricultural knowledge, which are thoroughly practical, and have on their face evidence of their eminent utility, if adopted. The duty of the agriculturist, and the importance of his occupation to the welfare of government, is forcibly delineated in the followiug paragraphs:

"I have presented for your consideration, for your co-operation, indeed, various suggestions connected with the advancement of agriculture; but far beyond these in influence and importance, is the advancement of the agriculturist; the education, sound, practical and enlarged, of that vast body of our youth who form, and are to form, the farming interest of our country; an interest that embraces more than one half of our population, and a still greater proportion of the permanent influence to which our social and political institutions must look for support in those periods of their trial, which have heretofore come upon other nations and have come upon us. The cultivator of the soil is engaged in one of the noblest occupations that belongs to the whole circle of human employment. *In replenishing the earth and subduing it, and in multiplying every herb bearing seed, and every tree in which is the fruit of a tree yielding seed*, all of which were given to man "for meat," before he left his primitive residence, where God first planted him. He deals with organic life, with its production, its improvement, its multiplication with the means of subsistence for that great family of rational and responsible beings which "has dominion" over all that the earth brings forth, as well as *over every living thing that moveth upon it.* His existence does not pass in crowded cities, the works of man, surrounded with the physical

and moral ills, which a dense population is sure to bring with it. He walks abroad among the works of God, reading the great Book of Nature, whose every page is filled with lessons of wisdom, written in characters that no man can misunderstand, *but the fool that saith in his heart there is no God.*

The light that shines, the wind that blows, the rain that falls, the phenomena of nature, are the companions of his daily walks, and works, not more objects of curiosity or even of contemplation, indifferent or interesting, as he neglects or observes them, but ever active agents in the progress of production, co-laborers with himself in the domain of Nature, performing the functions assigned to them, "in seed time and harvest, and cold and heat, and summer and winter, and day and night," which we are told by Him who knoweth and ordaineth it, *shall not cease while the earth remaineth.*

The work-shop of the farmer is not a narrow and heated room, shut out from light and air—but broad fields and an open sky are the witnesses of his labors; and it is not mere inert matter that he deals with, calling into exertion his mechanical powers only, but one of the great kingdoms of living nature, furnishing subjects of ceaseless observation and wonder to the highest intellect, and forever inviting the researches of man, as well by the enlarged views it presents of great natural operations, as by the effect of this increased knowledge upon the heart and the understanding, and by the rewards, which are sure to follow the exertions of the enlightened cultivator.

From the hyssop that springeth out of the wall, to the cedar of Lebanon, from the lowliest plant that creeps into life, to the giant of the forest that rears its head above a sea of vegetation, resisting the winds of Heaven for centuries, there is a mighty mass of organized forms endowed with a principle of vitality, which proclaim the power of God, and invite the researches of man. Wondrous are its extent, its variety, the laws of its being, the purposes it fulfils, the mode of its production, its existence and its reproduction and the admirable organization by which its functions are to be performed, and inorganic matter converted into its beautiful foliage, which covers the face of the earth, rejoicing the eye and the heart, and ministering to the wants of sentient creation. And the life of the farmer passes in the midst of this great family of nature. It is his daily care to cultivate, to increase, to improve those branches of it which are the most necessary for human comfort and subsistence; and it should be his daily pleasure, as it is his duty, to observe the processes of vegetable life, the habits of plants, and the laws regulating their organization, that he may know how to *make the earth bring forth by handfuls*, like the seven plenteous years of Egypt, and still meliorate his practice, as he extends his knowledge. Who does not see, that here is scope enough for the most powerful intellect, the most enlarged understanding? The practical study of the works of creation, admitting the application of advanced science, as well as the highest

powers of personal observation; and yet since the earliest period, indeed, since the acorn gave place to wheat as the principal article of subsistence, a delusion has been propagated, not universal indeed, for there are honorable exceptions, both in ancient and in modern days, but far too general, and so firmly maintained, that even now it exerts a powerful influence, and is but slowly yielding to the intellectual progress which marks the age in which we live.'

Of the personal traits of Gen. Cass' character, but few words need be said. His benevolence, towards those upon whom the hand of misfortune has been heavily laid, is well known to those familiar with his private life. In times of public calamity, amid the ravages of war—when his fellow citizens were held in bondage by their Indian captors, his time, influence, and purse, were devoted to their use. Many persons are still living whose lives were saved and their release obtained, by his interposition. A man of great wealth, he lives unostentatiously, and there is no show of unusual splendor about his dwelling, to mark it as better than his neighbors. Affable and courteous to all, he wins the respect and friendship of those who approach him.

His residence, in the city of Detroit, is a plain wooden building, where, in the intervals of his Senatorial duty, he passes his time, with his family, unambitious of any public station of distinction, except when called from his retirement by the general voice of his political friends, to assume the responsibilities of public office.

In personal appearance, Gen. Cass is decidedly imposing. His person is large, robust and well filled out, presenting a little more *embonpoint*, than at the period of his appointment as Minister to France. He was then more active. His movements now indicate something of the caution of age, without any of its weakness or uncertainty. In heighth, he is about five feet eight inches, perhaps a little more, the fullness of his person giving the impression of a shorter man. His frame is well knit together, and indicates a muscular power that has been developed by early exposure. In watching his powerful step, now, the observer would read, without surprize, the account of the incident elsewhere related, which occurred, nearly thirty years ago, at the Saut St. Marie, when he advanced into the midst of a hostile camp of Indians, and tore down, with his own hands, the cross of St. George, and placed in its stead the star spangled banner of his country. He would feel certain

that the General would, under similar circumstances, do it again.

Gen. Cass' face is full and expressive; his forehead is lofty, while its great breadth and singular depth from brow to occiput, indicates power of intellect. His head is of the largest size, and the outlines classical, and no one, who meets him, can doubt he has encountered a deep thinker and a statesman. His brows are bushy and heavy; his nose rather long, but elevated, full, rectilinear and classical; his eyes are blue, and, when in repose, subdued in expression. Numerous busts and paintings have been made of Gen. Cass. It is believed that the finest marble is that by Jones, who has idealized the head sufficiently for the demands of art, without losing any of the essential detail to a likeness. A portrait of Gen. Cass, by Mr. Bradish, is said to be a most excellent likeness and a superior work of art. It represents him in the act of addressing the Senate: one arm thrown behind him, in an attitude that will be recognized by all who are familiar with his manner of speaking.

In closing this sketch, the writer would say, that in the scope of a single volume like this, it is not possible to do justice to the character and services of Gen. Cass, nor has he the vanity to think that, under any circumstances, could he be able to perform that duty. That must be reserved for an abler pen. To present succinctly the main features of the public career of Gen. Cass, and to show, by extracts from his speeches and addresses, how earnestly he has labored for the good of his country, and how entirely free from sectional prejudice he is, as a statesman, has been all that the writer hoped to accomplish.

THE END.

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